THE LAWS OF THE FEDERATED MALAY STATES

1877—1920

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VIII. No books shall be sent out of the United Kingdom, except to Governments or recognised Societies.

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By Order of the Council.

Royal Colonial Institute,
Northumberland Avenue, London, W.C. 2.

July 21, 1920.

THE LAWS OF THE FEDERATED MALAY STATES.

VOL. III.

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THE LAWS OF THE FEDERATED MALAY STATES

1877—1920

COMPILED BY

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IN THREE VOLUMES.

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FEDERAL LAWS
UNREPEALED ON THE 31ST DECEMBER, 1920.
PART II.

ENACTMENT NO. 5 OF 1915.

An Enactment to impose an Education Rate within Sanitary Board Areas.

ARTHUR YOUNG,
President of the Federal Council.

[1st June, 1915.
18th June, 1915.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Education Rate Enactment, 1915," and shall come into force on the publication thereof in the *Gazette*.

Interpretation.

2. In this Enactment the expressions "owner," "Sanitary Board area," "house," and "building" have the meanings assigned thereto respectively in the Sanitary Boards Enactments, 1907.

Annual rate for education.

3. An annual rate for the general purposes of education within the Federated Malay States shall be imposed as from the 1st day of January, 1916, upon all lands, houses, and buildings situated within any Sanitary Board area and shall be payable by the owners of such lands, houses, and buildings by half-yearly instalments in advance without demand in the months of January and July in each year.

Amount and collection of rate.

4. The said rate shall be called the education rate and shall be a rate of one per centum of the annual value of the lands, houses, and buildings on which it is imposed and shall be collected in every Sanitary Board area by the Sanitary Board having control thereof; and the provisions of the Sanitary Boards Enactments, 1907, relating to the ascertainment of the annual value of lands, houses, and buildings and to the assessment and recovery of rates due under the said Enactments shall apply to the assessment and recovery of the rate imposed by this Enactment.

Disposal of proceeds of rate.

5. All moneys received under this Enactment shall be paid into the public Treasury and shall be devoted solely to the purposes of education within the Federated Malay States in such manner as the Chief Secretary to Government may from time to time direct.

ENACTMENT NO. 6 OF 1915.

As amended by E. 22 of 1915, 23 of 1916, 3 of 1917, 24 of 1917, 38 of 1918, and 11 of 1920.

An Enactment to repeal and re-enact with amendments "The Excise Enactments, 1908," being the law to regulate the Excise.

ARTHUR YOUNG,
President of the Federal Council.

[1st June, 1915.
1st July, 1915.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as "The Excise Enactment, 1915," and shall come into force upon the first day of July, 1915.

(ii) Upon the coming into force of this Enactment the Enactments specified in the schedule shall be repealed; provided that all appointments and rules made, excise duties imposed, licenses issued, warehouse rent prescribed, Licensing Boards established, exclusive rights granted, and delegation of functions effected under any Enactment hereby repealed which were in force or had authority immediately prior to the commencement of this Enactment shall, so far as they are not inconsistent with the provisions of this Enactment, be deemed to have been made, imposed, issued, prescribed, established, granted, and effected under this Enactment.

Interpretation.

2. For the purposes of this Enactment and of rules, notifications, and orders to be made thereunder the following terms shall, unless there be something repugnant in the subject or context, have the meanings hereby assigned to them respectively :

"Beer" includes ale, stout, porter, and all other fermented liquors made from malt ;

"Chief Secretary" means the Chief Secretary to Government, Federated Malay States ;

"Conveyance" means any ship, boat, or vehicle ;

"Denatured" means effectually and permanently rendered unfit for human consumption ;

"Gallon" means the imperial gallon or the gantang, or six reputed quart bottles or twelve reputed pint bottles ;

"Intoxicating liquors" includes all liquors fit or intended for human consumption, *except medicated wines declared by the Chief Secretary under the provisions of Section* 2A *not to be intoxicating liquors for the purposes of this Enactment.*

E. 38 of 1918.

"Licensed warehouse" means a place licensed under this Enactment by the Resident of a State for the warehousing of liquors;

"Liquor" includes all liquid consisting of alcohol or containing more than two per cent. of pure alcohol by weight and also any liquid which the Chief Secretary may by notification in the *Gazette* declare to be liquor for the purposes of this Enactment;

"*Manufacture,*" *with its grammatical variations and cognate expressions, includes, in the case of liquor imported into any State, the addition of any substance, other than water, to such liquor with intent that the compound so formed shall be sold for human consumption, but does not include any such compound prepared at the order of a purchaser and for his immediate consumption.* E. 3 of 1917.

"Medicated wines" means intoxicating liquors which have been submitted to a process of preparation consisting of the addition of a drug or drugs intended to give special medicinal properties;

"Proper officer of excise" means any officer of excise acting in the fulfilment of the duties under this Enactment assigned to him by the Commissioner of Trade and Customs;

"Retail" means in the case of sale of liquors sale in less quantities than three dozen reputed quart bottles or six dozen reputed pint bottles, or six gallons when not sold in bottles; * * * *and* "*wholesale*" *means sale other than retail sale*; E. 22 of 1915. E. 11 of 1920.

"Spirit" means any liquor containing alcohol obtained by distillation, whether denatured or not;

"Tobacco" includes cigars, cigarettes, and snuff;

"Toddy" means the fermented juice drawn from a coconut, palmyra, date, or any other kind of palm tree.

2A. *The Chief Secretary may by notification in the* Gazette *declare any medicated wines not to be intoxicating liquors for the purposes of this Enactment; medicated wines so declared are hereinafter termed "declared medicated wines."* Declaration as to medicated wines. E. 38 of 1918.

3. The Resident of a State shall for such State appoint such officers as shall be necessary for the management and collection of the excise, and the performance of all duties connected therewith, on such salaries and allowances as may be determined and may require of any such officer such security for his good conduct as he shall deem necessary, and the Commissioner of Trade and Customs shall be the Chief Officer of Excise and shall have the general superintendence of all matters relating to the excise throughout the Federated Malay States. Power to appoint officers.

4. (i) The Resident of a State may from time to time, with the approval of the Chief Secretary, impose excise duties upon such liquors as he may think fit and from time to time cancel such duties and impose new duties in the stead thereof and may prescribe the methods according to which any duties so imposed shall be levied. Power to impose duties.

(ii) The amount of such duties and the approval of the Chief Secretary shall be notified in the *Gazette*, and such duties shall not come into force until the said notification is so published.

DISTILLATION AND MANUFACTURE OF LIQUORS.

Licenses to distil or manufacture liquors.

5. (i) No person shall in any State distil or manufacture any liquor other than toddy except under and in accordance with the provisions of a license issued by the Resident of such State and at the distillery, factory, or place of distillation or manufacture specified in the license.

(ii) Such license shall be issued at the discretion of the Resident and shall be subject to such conditions as may be fixed from time to time by the Chief Secretary.

(iii) There shall be charged for such license an annual fee to be determined by the Resident in each case.

No person except a licensee to keep a still or other apparatus.

6. (i) No person other than the holder of a license under Section 5 shall knowingly keep or have in his possession any still, utensil, or other apparatus for distilling or manufacturing liquors.

(ii) The owner and the occupier of any land or premises upon which any still, utensil, or other apparatus for distilling or manufacturing liquors is found shall be deemed to knowingly keep or have in his possession the same until the contrary be proved.

No liquor to be removed from a distillery except as allowed by rule.

7. No liquor shall in any State be removed from any distillery, factory, or place of distillation or manufacture specified in a license issued under Section 5 except in accordance with such rules as the Resident of such State may, with the approval of the Chief Secretary, from time to time make.

Power to enter licensed premises and take samples.

8. The holder of a license under Section 5 shall at all times permit the Chief Officer of Excise and any officer of Government authorized in that behalf in writing by the Resident of the State wherein the licensed premises are situate to enter on the licensed premises and to observe all processes of distillation and manufacture of liquors and denaturing of spirits and to take for examination samples of any materials used therein.

Power to make rules for distilleries and factories.

9. The Resident of a State may, with the approval of the Chief Secretary, make for such State rules for the following purposes :

(*a*) To prescribe the form in which an application for a license to distil or manufacture shall be made ;

(*b*) To prescribe the form in which such license shall be issued ;

(*c*) To prescribe the books and registers to be kept by the distiller or manufacturer and the returns to be submitted by him ;

(*d*) To regulate the hours during which distillation or manufacture may or may not take place and at which liquors may be removed from the distillery, factory, or place of distillation or manufacture ;

(*e*) To regulate the manner in which duty shall be paid and to safeguard the revenue to be derived from the duty upon liquors distilled or manufactured in licensed distilleries, factories, or places of distillation or manufacture ;

(*f*) To regulate the erection, inspection, supervision, management, and control of distilleries, factories, and places for distillation or manufacture of liquors and the fittings, implements, and apparatus to be maintained therein ;

(*g*) To prescribe what accommodation the distiller or manufacturer shall furnish free of cost for such officers of excise as the Resident may deem to be necessary for the control of the distillery or factory ;

(*h*) To prescribe the procedure to be observed when applications are received to denature liquors in customs stores or warehouses and to fix the fees to be charged in connection therewith.

Exemptions.

10. Nothing in this Enactment contained shall apply to any distillation by a duly qualified medical practitioner or by a chemist and druggist licensed under "The Deleterious Drugs Enactment, 1911," which may be proved to be for genuine medicinal or scientific purposes or to any distillation of essential oils.

STORAGE OF DUTIABLE LIQUORS.

Public warehouses.

11. The Resident of a State may, with the approval of the Chief Secretary, establish public warehouses wherein liquors may be deposited and kept without payment of excise duty and may prescribe from time to time the amount to be paid as warehouse rent on any liquor so deposited and may make rules to regulate the deposit, custody, and removal of liquors in and from such warehouses.

Licenses for warehouses.

12. (i) The Resident of a State may from time to time grant licenses for warehousing in such State, in places to be specified in the licenses, locally manufactured liquors liable to excise duty.

(ii) It shall be at the discretion of the Resident to grant or refuse such license, and any such license granted shall be for such period and subject to such special conditions as the Resident may direct.

(iii) There shall be charged for such license an annual fee to be determined by the Resident in each case.

Dutiable liquors to be warehoused.

13. No person shall store or keep or have in his possession or control any liquor on which the excise duty, if any, has not been paid except in a public or licensed warehouse ; provided that it shall not be an offence for any person licensed to distil or manufacture liquors to have in his possession upon the licensed premises liquors distilled or manufactured on such premises subject to such restrictions and in accordance with such rules as the Resident of the State may, with the approval of the Chief Secretary, from time to time make.

Storage of imported liquors in licensed warehouses.

14. The Resident of a State may authorize the storage of imported liquors in a licensed warehouse, subject to such conditions and to such fee as he may think fit to impose in each case.

Deposit and removal of liquors.

15. No liquors shall be deposited in, or removed from, a licensed warehouse, except in accordance with such rules as the Resident of the State may, with the approval of the Chief Secretary, from time to time make.

No removal of liquors until duty has been paid.

16. No liquors shall be removed from a licensed warehouse, except for export to a place without the Federated Malay States, until after the duty, if any, thereon shall have been paid

Power to make rules for licensed warehouses.

17. The Resident of a State may, with the approval of the Chief Secretary, make rules for the following purposes :

(*a*) To prescribe the form in and the conditions upon which applications—

(1) for a license for a warehouse for the storage of liquors ;

(2) for the opening of a licensed warehouse for the deposit of liquors therein ;

(3) for permission to remove liquors from a licensed warehouse ;

shall be made and may be granted ;

(*b*) To prescribe the form in and the conditions upon which—

(1) licenses for warehouses for the storage of liquors ;

(2) permits to remove liquors from a licensed warehouse ;

shall be issued and granted ;

(*c*) To prescribe the books and registers to be kept and the returns to be submitted by the licensee of any warehouse ;

(*d*) To regulate the days and hours during which any licensed warehouse may or may not be opened for the deposit or removal of liquors.

E 11 of 1920.

SALE OF LIQUORS.

Appointment of Licensing Boards.

18. (i) The Resident of a State may establish a Licensing Board for such State or Licensing Boards for such areas in such State as he may deem fit.

(ii) Each Board shall consist of a Chairman and a Vice-Chairman and not less than two or more than five other members, all of whom shall be appointed by the Resident.

(iii) Except as provided by Section 21, no license for the sale of any intoxicating liquor shall be issued or transferred except with the approval of such Board.

Retail sale to be licensed.

19. (i) No person shall sell by retail or offer for sale by retail any intoxicating liquors, whether for consumption on the premises or off the premises of the vendor, except under and in accordance with a license issued under this Enactment and in a place in such license specified ; provided that the sale of beer for consumption elsewhere than on the premises of the vendor shall not constitute an offence under this section.

(ii) The delivery of intoxicating liquor in less quantities than six gallons if not sold in bottles, or the reputed equivalent thereof if sold in bottles, shall be taken in any proceeding under this Enactment to be *primâ facie* evidence of sale by retail and that money or other consideration was given for the same.

Sale by wholesale to be licensed.
E. 11 of 1920.

19A. (i) *No person shall sell by wholesale, or offer for sale by wholesale any intoxicating liquors except under and in accordance with a license issued under this Enactment.*

(ii) *The delivery of intoxicating liquor in quantities of and exceeding six gallons shall be taken in any proceeding under this Enactment to be primâ facie evidence of sale by wholesale and that money or other consideration was given for the same.*

20. (i) The Licensing Board shall have authority to direct the issue or transfer of licenses as follows : Powers of Licensing Board in respect of licenses.

(*a*) Retail-shop licenses, for the sale by retail of intoxicating liquors, other than toddy or *declared* medicated wines, for consumption elsewhere than on the premises or at the place where they are sold ; E. 38 of 1918.

(*b*) Public-house licenses, for the sale by retail of intoxicating liquors, other than toddy or *declared* medicated wines, for consumption on the premises or at the place where they are sold ;

(*c*) Toddy-shop licenses, for the sale by retail of toddy for consumption either on or off the premises where it is sold ;

(*d*) Chemists' licenses, for the sale by retail of *declared* medicated wines for consumption elsewhere than on the premises or at the place where they are sold ; provided that chemists' licenses shall be issued only to chemists and druggists licensed under "The Deleterious Drugs Enactment, 1911" ;

(*e*) *Wholesale dealers' licenses for the sale by wholesale of intoxicating liquors.* E. 11 of 1920.

and no license issued under this section shall be transferable, except with the consent of the Licensing Board and on payment of the prescribed fee.

(ii) The Licensing Board may, in their discretion, subject the issue or transfer of any license under this section to such conditions, to be endorsed on the license, as they may think fit to impose, or may refuse the issue or transfer of any such license, or may suspend or cancel any such license at any time.

(iii) Any person aggrieved by the issue, transfer, refusal, suspension, or cancellation of a license under this section shall, if he so desire, be heard in person by the Licensing Board.

20A. *No action shall be brought or maintained in any Court for the recovery of any sum of money being the price of* Action not maintainable for price of liquor sold on credit.

(*a*) *intoxicating liquor or toddy sold by the holder of a public-house or toddy-shop license ; or* E. 23 of 1916 and E. 38 of 1918.

(*b*) *intoxicating liquor or declared medicated wine sold at any one time by the holder of a retail-shop or chemist's license in any quantity less than one dozen reputed quart bottles or two dozen reputed pint bottles or two gallons when not sold in bottles ;*

provided always that nothing in this section contained shall extend to prevent any innkeeper from keeping an account with a lodger in which any charge for liquor may be included and recovering the amount thereof in a Court.

21. (i) The Resident of a State may after consultation with the Licensing Board from time to time by deed grant to and vest in any person the exclusive right, subject to the limitations in this Enactment contained, of selling toddy by retail under license for any period, with or without special conditions, within such State or within such districts or localities thereof as may in the said deed be Exclusive right to retail toddy under license.

specified and after sale, either public or private, of such right; provided that no person in whom such right is vested shall be entitled to the issue of any toddy-shop license otherwise than to himself or to such person nominated by him as the Resident of the State may approve or otherwise than for such house, shop, or other place as the Resident of the State may approve.

(ii) A toddy-shop license issued to any person in whom such right as aforesaid is vested shall be subject to the provisions of this Enactment and of all rules from time to time in force thereunder relating to toddy-shop licenses and toddy-shops; provided that in any place in respect whereof such right as aforesaid is vested in any person the functions assigned by Sections 18 (iii) and 20 and by rules under this Enactment to the Licensing Board in respect of toddy shop licenses shall appertain not to the Licensing Board but to the Resident of the State; and provided further that the issue of a toddy-shop license shall not be refused in breach of any such right as aforesaid nor shall a toddy-shop license be suspended or cancelled in breach of such right.

(iii) The Resident of a State may from time to time by notification in the *Gazette* delegate to any officer all or any of the functions assigned by this section to a Resident.

Power to enter and take samples.
E. 23 of 1916.

21A. *Any member of a Licensing Board for any area being within such area or the proper officer of excise may at all reasonable times enter into and inspect any place where, or stop and examine any vehicle in which, there is any toddy which he has reasonable ground for believing to be intended for sale and may take samples of such toddy on payment or tender to the person in possession of the same or to his servant or agent of the sum of ten cents for every reputed quart of toddy so taken.*

Possession of certain kinds of toddy prohibited.
E. 23 of 1916.

21B. (i) *No person to whom a toddy-shop license has been issued or transferred under the provisions of this Enactment shall have in his possession any toddy which contains more than ten per centum of alcohol by volume or which has an acidity exceeding* 0·8 *per centum expressed in terms of acetic acid.*

(ii) *Any person who contravenes any of the provisions of the preceding sub-section shall be deemed to commit an offence and shall on conviction be liable to a fine which shall not be less than fifty dollars nor more than five hundred dollars.*

Licensee to render account of stock, to permit inspection, and to exhibit license.

22. Every person licensed under Section 20 or Section 21 shall—

(i) on demand by the proper officer of excise render an account in writing of the quantity and description of intoxicating liquors in his possession, custody, or control;

(ii) permit the proper officer of excise to enter the premises in which such liquors are stored at any time between the hours of six in the morning and six in the evening and inspect the same;

(iii) exhibit his license at all times in a conspicuous place upon the licensed premises.

Licensee not to keep dutiable liquors on premises.

23. No person licensed under Section 20 or Section 21 shall store or keep on his licensed premises any liquor upon which the duty has not been paid, and in the absence of proof to the contrary any

liquors upon which the duty has not been paid found on such premises shall be presumed to be stored or kept by such licensee.

24. No person except a person holding a license to sell by retail intoxicating liquors for consumption on the premises shall exhibit or keep up any sign, writing, painting, or other mark which may imply or give reasonable cause to believe that his premises are so licensed. Unlicensed person not to exhibit sign.

IMPORTATION OF TOBACCO.

25. (i) *No person shall import tobacco into the Federated Malay States otherwise than through the Post Office except under and in accordance with a license issued under this Enactment.* Importation of tobacco to be licensed. E. 22 of 1915.

(ii) *In proceedings against any person charged with importing tobacco without license the burden of proof that tobacco imported by such person was duly authorized by license under this Enactment to be imported shall be upon such person.*

26. (i) *Licenses to import tobacco into the Federated Malay States may be issued in each State or within any area of a State by such officer as the Resident of such State may appoint in that behalf.* Issue and transfer of licenses. E. 22 of 1915.

(ii) *Whenever in any administrative district or part of an administrative district no officer is for the time being empowered under subsection* (i) *to issue licenses to import tobacco, such licenses may be issued by the District Officer.*

(iii) *No license to import tobacco shall be transferable except with the consent of an officer empowered to issue such licenses, and no such license shall be issued or transferred until the prescribed fee shall have been paid.*

27. (i) *Any officer empowered to issue licenses to import tobacco into the Federated Malay States may, in his discretion, refuse to issue, or to consent to the transfer of, any such license and may suspend or cancel any such license the holder whereof shall have been convicted of a breach of any written law relating to the importation of tobacco into the Federated Malay States.* Powers of licensing officers. E. 22 of 1915.

(ii) *Any person aggrieved by the issue, transfer, refusal, suspension, or cancellation of a license under this section may appeal to the Resident of the State, whose decision shall be final.*

28. (i) Every person licensed under Section 26 to import tobacco shall on demand by the proper officer of excise render an account in writing, extending over such period as the proper officer of excise may require, of the quantity and description of tobacco imported by him and of the quantity and description sold or otherwise disposed of. Licensee to render account, to permit inspection, and to exhibit license. E. 22 of 1915.

(ii) Every person licensed under Section 26 shall

(*a*) permit the proper officer of excise to enter, at any time between the hours of six in the morning and six in the evening, the premises wherein any tobacco in the possession, custody, or control of such licensee is stored and to inspect the same ;

(*b*) produce for the inspection of the proper officer of excise all books of account kept by him in connection with the licensed business.

Licensee not to keep tobacco on which duty unpaid.

E. 22 of 1915.

29. No person licensed under Section 26 shall have in his possession any tobacco upon which any import duty payable has not been paid.

RULES RELATING TO LICENSES.

Power to make rules to regulate issue of licenses by Licensing Boards.

E. 22 of 1915.

30. The Resident of a State may, with the approval of the Chief Secretary, make rules for the following purposes :

(*a*) To regulate the proceedings of Licensing Boards *and of officers empowered to use licenses to import tobacco under this Enactment* and the issue of licenses by their authority ;

(*b*) To prescribe the form in which applications for such licenses shall be made and in which such licenses shall be issued ;

(*c*) To fix the fees which shall be charged for the issue or transfer of such licenses and the periods for which such licenses may be issued ;

(*d*) To prohibit sales except for cash ;

(*e*) To prohibit the admixture with any intoxicating liquors of any substance deemed to be noxious or objectionable ;

(*f*) To prohibit drunkenness or disorderly conduct in or near any licensed premises and the meeting or remaining of persons of bad character in such premises ;

(*g*) To prescribe the days and hours during which any licensed premises may or may not be kept open and to provide for the closing of such premises on special occasions ;

(*h*) To prescribe the nature of the premises in which any intoxicating liquors may be sold and the notices to be exposed at such premises ;

(*i*) To prescribe the books and accounts to be kept and the returns to be submitted by license holders and the form thereof, *and to provide for the inspection of such books and accounts.*

E. 21 of 1916.

E. 23 of 1916.

(*j*) *to secure the cleanliness and freedom from contamination of toddy in the course of its drawing, storage, carriage, exposure for sale, or delivery upon sale and to secure the cleanliness of places, receptacles, appliances, and vehicles used in such drawing, storage, carriage, exposure for sale, or delivery upon sale ; and*

(*k*) *to prescribe fines not exceeding five hundred dollars for the breach of any rule made under this section and to prescribe a minimum penalty, which in no case shall exceed a fine of fifty dollars, for the breach of any such rule.*

PENALTIES, FORFEITURES, GENERAL.

Forfeiture of liquors packed to deceive excise officers.

31. If any liquors distilled or manufactured within the Federated Malay States shall be found packed in any manner calculated to deceive the officers of excise so that a proper account of such liquors might not be taken, the same shall be forfeited together with everything packed therewith.

Forfeiture of articles the subject of an offence or used in commission of an offence.

32. (i) All liquors and tobacco in respect of which there may have been committed any offence against this or any other written law relating to the excise or any breach of the restrictions or conditions subject to or upon which any license or permit has been granted, together with any still, utensil, or other apparatus, or any receptacle, package, or conveyance in which the same may have been found or which may have been used in connection with such offence or breach, may be seized, and all such liquors, tobacco, and other articles so seized or which may be found without any apparent owner and for which no claim may be made within one month shall be forfeited.

(ii) All such liquors, tobacco and other articles, and all persons liable to be detained for any offence under this or any other written law relating to the excise, may be seized or detained in any place, either on land or water, by any officer of excise, officer of customs, or police officer, and all liquors, tobacco, and other articles so seized shall, as soon as conveniently may be, be delivered into the care of the proper officer of excise appointed to receive the same.

(iii) Whenever any such liquors, tobacco, or other articles shall be seized, the seizing officer, if not an officer of excise or a police officer not below the rank of Inspector, shall forthwith inform an officer of excise who shall forthwith give notice in writing of such seizure and of the grounds thereof to the owner, if known, either by delivering the same to him personally or by letter addressed to him at his place of abode, if known, and transmitted by post ; if the seizing officer be an officer of excise or a police officer not below the rank of Inspector, such officer shall himself give the notice hereinbefore prescribed ; provided that such notice shall not be required in any case where the seizure is made in the presence of the offender.

Powers of arrest.

33. (i) Any officer of excise or officer of customs or police officer may arrest without warrant

(*a*) any person found committing or attempting to commit or employing or aiding any person to commit an offence against this Enactment ;

(*b*) any person whom he may reasonably suspect to have in his possession any liquors, tobacco, or other article liable to forfeiture under this Enactment.

(ii) Every person so arrested shall, together with any article as to which an offence may have been committed or attempted to be committed, be taken to a police station.

Power of officers to stop and search conveyances.

E. 22 of 1915.

34. Any officer of excise *or officer of customs* or police officer may, upon reasonable suspicion or probable cause, stop and examine any conveyance to ascertain whether any liquors, tobacco, or other articles liable to seizure are contained therein, and any person in control of such conveyance refusing to allow such examination shall on conviction be punished by a fine of not less than twenty-five or more than five hundred dollars.

Power of Resident to restore forfeited articles.

35. The Resident of a State may, by an order made by him for that purpose, direct any still, utensil, or other apparatus or any receptacle, package, or conveyance or any liquors or tobacco seized under this or any other written law relating to the excise to be

delivered to the proprietor thereof upon such terms and conditions as he may see fit.

Penalty for evading provisions of Enactment.

36. Every person who

(*a*) shall contrary to the provisions of this Enactment receive into or have in his possession, custody, or control any liquors on which the excise duty leviable by law shall not be proved to have been paid or which have been illegally made or prepared, or

(*b*) shall assist or be otherwise concerned in the illegal removal or withdrawal of any liquors from any distillery, factory, or place for distilling or manufacturing liquor or from any licensed warehouse or place of security in which liquors may have been deposited, or

(*c*) shall knowingly harbour, keep or conceal or permit, suffer, cause or procure to be harboured, kept or concealed any liquors on which the excise duty shall not have been paid or any liquors illegally removed or to whose hands or possession any such liquors shall knowingly come, or

(*d*) shall be in any way knowingly concerned in conveying, removing, depositing, concealing, or in any manner dealing with any such liquors with intent to defraud the Government of the Federated Malay States of any excise duty thereon or to evade any prohibition or restriction of or applicable to such liquors, or

(*e*) shall be in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any excise duty,

shall in each and every of the foregoing cases be on conviction punished with a fine which shall not be less than three times the value of the liquor and the duty and which may extend to three thousand dollars.

Penalty for assaulting or obstructing officers.

37. Every person who

(*a*) shall assault or obstruct any officer of excise or other public servant or any person acting in aid of him or them or duly employed for the prevention of evasion of excise duty or of illicit manufacture or sale of liquors * * * in the execution of his or their duty or in the due seizing of any liquors or tobacco liable to forfeiture under this or any other written law relating to the excise, or

E. 22 of 1915.

(*b*) shall rescue or endeavour to rescue or cause to be rescued any liquors or tobacco which have been duly seized, or

(*c*) shall before or after seizure stave, break, or otherwise destroy any cask, bottle, jar, case, or other package to prevent the seizure thereof or the securing of the same,

shall, on conviction of any of the said offences, for the first offence be punished by imprisonment of either description for a term not exceeding nine months or by fine not exceeding one thousand dollars or by both imprisonment and fine and for every subsequent offence be punished by imprisonment of either description for a term not exceeding eighteen months and be also liable to a fine not exceeding two thousand dollars.

38. Every omission or neglect to comply with, and every act done or attempted to be done contrary to, the provisions of this Enactment or of any rule duly made thereunder or in breach of the restrictions and conditions subject to or upon which any license or permit shall have been issued under this Enactment shall be deemed to be an offence against this Enactment, and for every such offence, not otherwise especially provided for, the offender shall, in addition to the forfeiture of any articles seized, be liable on conviction for every first offence to a fine not exceeding five hundred dollars and for every subsequent offence to imprisonment of either description for a term not exceeding twelve months or to a fine not exceeding one thousand dollars or to both imprisonment and fine. Penalty for offences not otherwise provided for.

39. Every person who shall under the provisions of this Enactment deliver any application or supply any particulars, return, account,or other written statement required by this Enactment or by any rule duly made thereunder shall, if such application, particulars, return, account, or written statement be false or incorrect either in whole or in part to the knowledge of the person so making, delivering, or supplying the same, whether the same be signed by him or not,be liable for the first offence to imprisonment of either description for any term not exceeding three months or to a fine not exceeding one thousand dollars or to both imprisonment and fine and for every subsequent offence to imprisonment of either description for any term not exceeding twelve months or to a fine not exceeding two thousand dollars or to both imprisonment and fine. Penalty for making a false return.

39A. (i) *In any prosecution for breach of a provision of this Enactment or of any rule thereunder a certificate of analysis purporting to be under the hand of an Analyst shall, on production thereof by the prosecutor, be sufficient evidence of the facts stated therein unless the defendant requires that the Analyst be called as a witness, in which case he shall give notice thereof to the prosecutor not less than three clear days before the day on which the summons is returnable.* Analyst's certificate to be *primâ facie* evidence. E. 24 of 1917.

(ii) *In like manner a certificate of analysis purporting to be under the hand of an Analyst shall, on production thereof by the defendant, be sufficient evidence of the facts stated therein unless the prosecutor requires that the Analyst be called as a witness.*

(iii) *A copy of such last-mentioned certificate shall be sent to the prosecutor at least three clear days before the day fixed for the hearing of the summons, and if it is not so sent the Court may adjourn the hearing on such terms as it may think proper.*

(iv) *Analysts are by this Enactment bound to state the truth in certificates of analysis under their hands.*

(v) *In this section the word "Analyst" includes only*

(*a*) *the persons employed for the time being as Chemist or Assistant Chemist at the Government Institute for Medical Research, and*

(*b*) *any other Analyst to whom this section may be declared by the Chief Secretary to Government, by notification in the* Gazette, *to apply.*

40. The Resident of a State may offer such rewards as he may see fit to any officer or other person by whose means any pecuniary Rewards.

penalty is recovered under this Enactment and may order to be paid in respect of any seizure made under this or any other written law relating to the excise to the person or persons making the same such reward as he may see fit.

Power of licensing authority to suspend or cancel license.

41. (i) The authority granting any license, permit, or pass under this Enactment may suspend or cancel it—

(*a*) if any duty or fee payable by the holder thereof be not duly paid ; or

(*b*) in the event of any breach by the holder of such license, permit, or pass, or by his servants or by anyone acting with his expressed or implied permission on his behalf, or any of the terms or conditions of such license, permit, or pass ; or

(*c*) if the holder thereof is convicted of any offence under this Enactment or any other law for the time being in force relating to revenue or of any cognizable and non-bailable offence, or is punished for any offence referred to in Section 31 of "The Customs Regulations Enactments, 1907."

E. 38 of 1918.

(ii) When a license, permit, or pass held by any person is cancelled under sub-section (i), the licensing authority may cancel any other licence, permit, or pass granted to such person under this Enactment or under any other written law for the time being in force relating to the excise or under "The Opium and Chandu Enactment, 1910."

(iii) The holder shall not be entitled to any compensation for the cancellation or suspension of his license, permit, or pass under this section nor to refund of any fee paid or deposit made in respect thereof.

Licensees may be required to enter into recognizances.

42. The licensing authority may require, as a condition precedent to the issue of any license, that the applicant shall enter into recognizances with such security as may be thought fit for the due observance of the conditions of the license.

Provisions in case of death or bankruptcy of licensee.

43. In the case of the death or bankruptcy of any licensee the licensing authority may by endorsement on the license authorize any other person to exercise the rights conferred by the license until the expiration of the term for which it was originally granted, or for any shorter period, subject to all the conditions originally imposed by such license and to such further conditions as the licensing authority may deem fit to impose.

Power to make rules.

44. The Resident of a State may, with the approval of the Chief Secretary, make for such State rules, not inconsistent with this Enactment, to regulate the conduct of all matters relating to the collection of excise duties and the powers and duties to be exercised and performed by officers of excise and generally for the purpose of giving effect to the provisions of this Enactment.

Convictions under other laws.

45. Nothing in this Enactment contained shall be deemed to prevent the prosecution, conviction and punishment of any person according to the provisions of any other law for the time being in force in the Federated Malay States ; but so that no person shall be punished more than once for the same offence.

46. A conviction for any offence under this Enactment may be had before the Court of a Magistrate of the First Class and such Court shall have jurisdiction to impose any penalty provided by this Enactment. Jurisdiction.

PROTECTION OF OFFICERS.

47. (i) No action shall be brought against any person for anything done or *bonâ fide* intended to be done in the exercise or supposed exercise of the powers given by this Enactment or by any rules made thereunder— Provisions as to actions.

(*a*) without giving to such person one month's previous notice in writing of the intended action and of the cause thereof ;

(*b*) after the expiration of three months from the date of the accrual of the cause of action ;

(*c*) after tender of sufficient amends.

(ii) In every action so brought it shall be expressly alleged that the defendant acted either maliciously or negligently and without reasonable or probable cause, and if at the trial the plaintiff shall fail to prove such allegation judgment shall be given for the defendant.

(iii) Though judgment be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Court before which the action is tried shall certify its approbation of the action.

SCHEDULE.

ENACTMENTS REPEALED.

State.	No. and year.	Short title.
Perak ..	8 of 1908	The Excise Enactment, 1908
Selangor ..	8 of 1908	Do.
Negri Sembilan	8 of 1908	Do.
Pahang ..	1 of 1909	The Excise Enactment, 1909
Federal ..	18 of 1912	The Excise Enactments Amendment Enactment, 1912

ENACTMENT NO. 8 OF 1915.

An Enactment to provide for extending to the Federated Malay States the operation of the Army Act.

ARTHUR YOUNG,
President of the Federal Council.

[1st June, 1915.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Army Act Enactment, 1915," and shall come into force on the publication thereof in the *Gazette*.

Order for extension of Army Act to the Federated Malay States.

2. The High Commissioner may by order under his hand published in the *Gazette* direct that the operation of the Act of the Imperial Parliament 44 and 45 Victoria, chapter 58, shortly cited as the Army Act, be extended to the Federated Malay States on and after such date as may be specified in that behalf in such order.

Effect of order.

3. (i) When an order has been duly published under Section 2, the said Act of the Imperial Parliament together with all amendments thereof in force for the time being (which Act and amendments are hereinafter referred to as the Army Act) shall, subject to the provisions of sub-sections (ii) and (iii), have effect within the Federated Malay States on and after the date specified in such order in the manner in the said Act prescribed for the application thereof to a British Protectorate.

(ii) The Army Act shall be read subject to the exceptions and modifications described in the schedule hereto and to such other exceptions and modifications (if any) as the High Commissioner may from time to time prescribe by order under his hand published in the *Gazette* ; any such order may extend to rescission or alteration of any of the exceptions and modifications described in the said schedule or prescribed under this sub-section.

(iii) In matters not regulated by the schedule hereto or by any order published under sub-section (ii) the Army Act shall be read with such formal alterations as to names, localities, Courts, offices, persons, moneys, penalties, and otherwise as may be necessary to make the same applicable to the circumstances of the Federated Malay States.

Order for cessation of operation of Army Act.

4. (i) At any time when the Army Act shall be in force in the Federated Malay States by virtue of this Enactment the High Commissioner may by order under his hand published in the *Gazette* direct that the said Act shall on and after such date as may be specified in that behalf in such order cease to have effect within the Federated Malay States.

(ii) When an order has been duly published under this section, the Army Act shall cease to have effect within the Federated Malay States on and after the date specified in that behalf in such order, until a further order be published under Section 2; provided that such cessation shall not affect

(*a*) the past operation of, or anything duly done or suffered under, the Army Act;

(*b*) any offence committed, any right, liberty, or penalty acquired or incurred under the Army Act;

(*c*) any action, proceeding, or thing pending or incompleted at the time when the Army Act ceases to have effect; but every such action, proceeding, or thing may be carried on and completed as if there had been no such cessation.

Declaration under Section 189 of Army Act.

5. Any declaration made by the High Commissioner under Section 189 of the Army Act shall be deemed to apply to every military force raised in the Federated Malay States, and for the purposes of such declaration the Federated Malay States shall be deemed to be within the dominions of His Britannic Majesty.

Schedule.

(1) In the construction of the Army Act all military forces engaged to serve or serving the Government in the Federated Malay States shall be deemed to be included in His Majesty's forces and such service shall be deemed to be His Majesty's service.

(2) The officer commanding the troops in the Colony shall be deemed to be the officer commanding the forces in the Federated Malay States.

(3) When a person who is by virtue of this Enactment subject to military law is convicted by a court martial and sentenced to penal servitude, such conviction and sentence shall be of the same effect as if such person had been convicted of an offence punishable by penal servitude and sentenced to penal servitude by a competent Civil Court, and all written laws relating to a person sentenced to penal servitude by a competent Civil Court shall, so far as circumstances admit, apply accordingly.

(4) The following provisions of the Army Act shall not have effect in the Federated Malay States by virtue of this Enactment:

Sections 13, 30, 31, 32, 33, 34, 42, 43, 58, 59, 60, 61, 62, 64, 66, 76 to 121 inclusive, 127, 131 (2), 134, 136 to 147 inclusive, 155, 166, 167, 173, 174, 174A, 178, 179, 180, 181, 182, 183, 185, 186, 187, and the First, Second, and Third Schedules.

ENACTMENT NO. 12 OF 1915.

An Enactment to repeal and re-enact with amendments the "Lunacy Enactments, 1898," being the law to regulate proceedings in Lunacy and to provide for the reception and detention of Lunatics in Asylums.

ARTHUR YOUNG,
President of the Federal Council.

[2nd December, 1915.
31st December, 1915.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as "The Lunacy Enactment, 1915," and shall come into force on the publication thereof in the *Gazette*.

(ii) Upon the coming into force of this Enactment the Enactments specified in the first schedule shall be repealed ; provided that all orders, decisions, directions, appointments, and rules given or made, all asylums established and licenses granted under any Enactment hereby repealed which were in force and subsisting immediately prior to the commencement of this Enactment shall, so far as may be consistent with the provisions of this Enactment, be deemed to have been given, made, established, and granted under this Enactment.

Interpretation.

2. In Part I, unless there be something repugnant in the subject or context, "the Court" means the Court of a Judicial Commissioner ; "Lunatic" means any person found by due course of law to be of unsound mind and incapable of managing himself and his affairs ; and "Registrar" includes Assistant Registrar and Deputy Registrar.

In Part II, unless there be something repugnant in the subject or context, "Lunatic" means every person of unsound mind and every person being an idiot ; and "Medical Officer" means a duly qualified Medical Practitioner in the service of the Government.

PART I.

PROVISIONS REGULATING PROCEEDINGS IN LUNACY.

Court may order enquiry.

3. (i) The Court may, on such application as is hereinafter mentioned, make an order directing an enquiry whether any person subject to the jurisdiction of the Court who is alleged to be lunatic is or is not of unsound mind and incapable of managing himself and his affairs.

(ii) Such order may also contain directions for enquiries concerning the nature of the property belonging to the alleged lunatic, the persons who are his relatives or next of kin, the time during which he has been of unsound mind, or such other questions as to the Court shall seem proper.

Application by whom made.

4. Application for such enquiry may be made by any person related by blood or marriage to the alleged lunatic, or by any public officer nominated, by the Resident of the State wherein the application is to be made, for the purpose of making the application.

Provisions as to notice of enquiry.

5. (i) Reasonable notice of the time and place appointed for the enquiry shall be given to the alleged lunatic.

(ii) If it shall appear that the alleged lunatic is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of the notice as it shall think proper.

(iii) The Court may also, if it think fit, direct a copy of such notice to be served upon any person related by blood or marriage to the alleged lunatic.

Power to examine alleged lunatic.

6. At any time after the application for the enquiry the Court may require the alleged lunatic to attend at such convenient time and place, within ten miles of the place of residence of the said alleged lunatic, as the Court may appoint, for the purpose of being personally examined by the Court or by any person from whom the Court may desire to have a report of the mental capacity and condition of the said alleged lunatic, and the Court may also make an order authorizing any person or persons named therein to have access to the said alleged lunatic for the purpose of a personal examination.

Questions to be decided by Court.

7. On the day fixed for the enquiry, after receiving such reports and hearing such evidence and arguments as it may think fit, the Court shall decide whether the person who is alleged to be lunatic is or is not of unsound mind and incapable of managing himself and his affairs and shall also decide any other questions as to which an enquiry has been directed.

Order as to costs.

8. The Court may make such order as may appear just respecting the costs of the enquiry and may include therein such remuneration to physicians and surgeons as the Court shall deem reasonable; provided that no order for the payment of costs shall be made against the Resident of a State or against any public officer nominated by a Resident under the provisions of Section 4.

Appointment of committees.

9. If the Court shall decide that the person who is alleged to be lunatic is of unsound mind and incapable of managing himself and his affairs, the Court may, if it shall think fit, appoint a committee or committees of the person and estate of the lunatic and may make such order, if any, as to the remuneration of the committee or committees out of the lunatic's estate, and as to the giving of security by the committee or committees, as to the Court may seem fit.

Powers of management of lunatic's estate.

10. The Court may on the appointment of a committee or committees of the person and estate of a lunatic direct by the order of appointment or by any subsequent order that the person to

whom the charge of the estate is committed shall have such powers for the management thereof as to the Court shall seem necessary and proper, reference being had to the nature of the property, whether movable or immovable, of which the estate may consist. But such powers shall not extend to the sale or charge of the estate or any part thereof or to the letting of any immovable property, unless for a term not exceeding three years.

Power of Registrar to receive proposal.

11. The Registrar of the Court shall be at liberty without an order of reference to receive any proposal and conduct any enquiry respecting the management of the estate of a lunatic if such proposal relate to any matter which the committee of the estate has not been empowered by an order under the last preceding section to dispose of. The Registrar may likewise without reference receive and enquire into any proposal relating to the sale or charge of the estate or of any part thereof or to the letting of any immovable property for a term exceeding three years.

Registrar to report to Court.

12. The Registrar shall report to the Court on the proposal and the Court shall, subject to the provisions of this Enactment, make such order upon the report and respecting the costs as shall under the circumstances seem just.

What relative may attend proceedings.

13. The Court shall once in the matter of each lunacy, and may afterwards from time to time, determine whether any one or more and, if any, how many and which of the relatives or next of kin shall attend before the Registrar at the cost of the estate in any proceeding connected with the management thereof and, if any such relative or next of kin is an infant, may from time to time appoint a fit person to be his guardian for the purposes of the lunacy.

Orders may be made on petition.

14. The Court may, on application made to it by petition concerning any matter whatsoever connected with the lunacy, make such order, subject to the provisions of this Enactment, respecting the application and the costs thereof and of the consequent proceedings as shall under the circumstances seem just.

Dealings with lunatic's property for certain purposes.

15. The Court may, if it appears to be just or for the lunatic's benefit, order that any property, movable or immovable, of the lunatic, and whether in possession, reversion, remainder, contingency, or expectancy, be sold, charged, or otherwise disposed of as may seem most expedient for the purpose of raising money to be applied for any of the following purposes :

(*a*) the payment of the lunatic's debts, including any debt incurred for his maintenance or otherwise for his benefit ;

(*b*) the discharge of any encumbrance on his estate ;

(*c*) the payment of or provision for the expenses of his future maintenance and the maintenance of his family, including the expenses of his removal to Europe, India, China, or elsewhere, when he shall be so removed, and all expenses incidental thereto ;

(*d*) the payment of the costs of any enquiry under this Enactment and of any costs incurred by order or under the authority of the Court.

Committee to execute instruments.

16. The committee of the lunatic's estate shall in the name and on behalf of the lunatic execute all such conveyances and instruments of transfer or charge relative to any sale, charge, or other disposition of his estate as the Court shall order. In like manner, such committee shall under the order of the Court exercise all powers whatsoever vested in a lunatic, whether the same are vested in him for his own benefit or in the character of trustee or guardian.

Performance of contract.

17. Where a person having contracted to sell or otherwise dispose of his estate or any part thereof afterwards becomes lunatic, the Court may, if the contract is such as the Court thinks ought to be performed, direct the committee of the estate to execute such conveyances and to do such acts in fulfilment of the contract as it shall think proper.

Partner found lunatic.

18. If a member of a partnership firm be found lunatic, the Court may, on the application of the other partners or of any person who appears to the Court to be entitled to require the same, dissolve the partnership; and thereupon, or upon a dissolution by decree of Court or otherwise by due course of law, the committee of the estate may in the name and on behalf of the lunatic join with the other partners in disposing of the partnership property upon such terms and shall do all such acts for carrying into effect the dissolution of the partnership as the Court shall think proper.

Disposal of business premises.

19. Where a lunatic has been engaged in business the Court may, if it appear to be for the lunatic's benefit that the business premises should be disposed of, order the committee of the estate to sell and dispose of the same, and the moneys arising from such sale shall be applied in such manner as the Court shall direct.

Committee may dispose of lease.

20. Where a lunatic is entitled to a lease or under-lease and it appears to be for the benefit of his estate that it should be disposed of, the committee of the estate may by order of the Court surrender, assign, or otherwise dispose of the same to such person for such valuable or nominal consideration and upon such terms as the Court shall think fit.

Transfer of stock of lunatic.

21. Where any stock or Government or municipal securities or any shares in a company (transferable within the Federated Malay States or the dividends of which are payable there) are standing in the name of, or are vested in, a lunatic beneficially entitled thereto or a committee of the estate of a lunatic or a trustee for him, and the committee or trustee dies intestate or himself becomes lunatic or is out of the jurisdiction of the Court, or it is uncertain whether the committee or trustee be living or dead, or he neglects or refuses to transfer the stock, securities, or shares or to receive and pay the dividends to a new committee or trustee or as he directs within fourteen days after being required by him to do so, then the Court may order some fit person to make such transfer or to transfer the same and to receive and pay over the dividends in such manner as the Court may direct, and such transfer or payment shall be valid and effectual for all purposes.

Transfer of property of lunatic residing out of the F.M.S.

22. Where any property situate in the Federated Malay States is standing in the name of or vested in any person residing out of the Federated Malay States, the Court, upon being satisfied that such

person has been declared of unsound mind and that his personal estate has been vested in a committee, curator, or manager according to the laws of the place where he is residing, may order some fit person to make such transfer of the property, or of any part thereof, to such committee, curator, or manager or otherwise, and also to receive and pay over any proceeds or profits thereof as the Court may think fit; and any act done in pursuance of such order shall be valid and effectual for all purposes.

Power to order maintenance without appointing committee.

23. If it appears to the Court, having regard to the situation and condition in life of the lunatic and his family and the other circumstances of the case, to be expedient that his property should be made available for his or their maintenance in a direct and inexpensive manner, it may, instead of appointing a committee of the estate, order that the property, if money, or if of any other description the produce thereof when realized, be paid to such person as the Court may think fit to be applied for the purpose aforesaid, and all payments so made shall be a good discharge to the person making the same.

Temporary provision for maintenance of lunatic.

24. If it appears to the Court that the unsoundness of mind of a lunatic is in its nature temporary and that it is expedient to make temporary provision for his maintenance or for the maintenance of his family, the Court may in like manner as under the last preceding section direct his property or a sufficient part of it to be applied for the purpose aforesaid.

Annulling proceedings in lunacy.

25. When any person has been found of unsound mind and it shall be shown to the Court, either on the application of such person or of any other person acting on his behalf or on the information of any other person, that there is reason to believe that such unsoundness of mind has ceased, the Court may make an order for enquiry whether such person is or is not still of unsound mind and incapable of managing himself and his affairs. The enquiry shall be conducted in the same manner and subject to the same rules as are hereinbefore prescribed for an enquiry into the unsoundness of mind of an alleged lunatic; and if it be found that the unsoundness of mind has ceased, the Court shall order all proceedings in the matter of the lunacy to cease or to be set aside on such terms and conditions as under the circumstances of the case shall appear proper.

PART II.

PROVISIONS FOR THE RECEPTION AND DETENTION OF LUNATICS IN ASYLUMS.

Establishment of lunatic asylums.

26. The Resident of any State may establish in such State asylums for the reception and detention of lunatics at such places as may be deemed proper. He may also if he think fit grant licenses to any private persons for the establishment of such asylums and may withdraw such licenses.

Management of lunatic asylums.

27. (i) The management of every lunatic asylum and the care and the custody of its inmates shall be regulated according to such rules as shall from time to time be made under this Enactment by the Resident of the State wherein such asylum is situated.

(ii) The Resident of each State shall appoint for every asylum in such State not less than three visitors, one of whom at least shall be a Medical Officer.

Monthly inspection by visitors.

28. Two or more of the visitors, one of whom shall be a Medical Officer, shall once at least in every month together inspect every part of the asylum or asylums of which they are visitors and see and examine, as far as circumstances will permit, every lunatic therein and the order and certificate for the admission of every lunatic admitted since the last visitation of the visitors and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the lunatics therein.

Apprehension of wandering lunatics.

29. It shall be the duty of every Police Officer not below the rank of Inspector to apprehend all persons found wandering at large who are deemed to be lunatics and all persons believed to be dangerous by reason of lunacy and to report to a Magistrate the fact of the apprehension of any such person. Every person so apprehended may be detained by order of a Magistrate for purposes of examination and shall be examined by a Magistrate with the assistance of a Medical Officer; and if the Medical Officer shall sign a certificate in the form A in the second schedule and the Magistrate shall be satisfied on personal examination or other proof that such person is a lunatic and a proper person to be detained under care and treatment, he shall make an order for such lunatic to be received into the Central Lunatic Asylum at Tanjong Rambutan in the State of Perak or into such other public asylum in the Federated Malay States as he may think fit and shall send the lunatic in suitable custody to the asylum mentioned in such order. Provided that if any friend or relative of any lunatic who is believed to be dangerous shall undertake in writing to the satisfaction of the Magistrate that such lunatic shall be properly taken care of and shall be prevented from doing injury to himself or others, the Magistrate instead of sending him to an asylum may make him over to the care of such friend or relative. Provided also that if any such friend or relative shall desire that the lunatic may be sent to a licensed asylum instead of a public asylum and shall engage in writing to the satisfaction of the Magistrate to pay the expenses which may be incurred for the lodging, maintenance, medicine, clothing, and care of the lunatic in such licensed asylum, the Magistrate may send the lunatic to the licensed asylum mentioned in the engagement.

Provision in case of cruel treatment or neglect of lunatic.

30. (i) If it shall appear to a Magistrate on the report of a Police Officer or the information of any other person that any person within the limits of such Magistrate's jurisdiction deemed to be a lunatic is not under proper care and control or is cruelly treated or neglected by any relative or other person having the charge of him, the Magistrate may send for the supposed lunatic and summon such relative or other person as has or ought to have the charge of him; and if such relative or other person be legally bound to maintain the supposed lunatic, the Magistrate may make an order for such lunatic to be properly cared for and treated, and if such relative or other person shall wilfully neglect to comply with the

said order may sentence him to imprisonment of either description for any period not exceeding one month. If there be no person legally bound to maintain the supposed lunatic, or if the Magistrate think fit so to do, he may proceed as prescribed in the last preceding section, and upon being satisfied in manner aforesaid that the person deemed to be a lunatic is a lunatic and a proper person to be detained under care and treatment may make an order for his reception into such asylum as aforesaid.

(ii) It shall be the duty of every Police Officer not below the rank of Inspector to report to a Magistrate every such case of neglect or cruel treatment as aforesaid which may come to his knowledge.

(iii) In any State any Medical Officer or any Police Officer not below the rank of Inspector may, at such times as the Resident of such State shall fix, visit any supposed lunatic in the care of any friend or relative of such supposed lunatic, for the purpose of ascertaining the condition of such supposed lunatic, and any such friend or relative shall be legally bound to produce the said supposed lunatic for the inspection of the visitor and in the event of his refusing to do so shall be liable to fine which may amount to five hundred dollars.

Admission of accused persons for observation.

31. (i) The Court of a Judicial Commissioner may, for the purpose of determining whether a person committed for trial before such Court or charged before such Court with an offence is or is not of unsound mind, by written order direct that such person be received into a lunatic asylum, to be named in the order, and be there detained under observation during such period, not exceeding one month, as to the Court may seem expedient and may thereafter examine any members of the staff of such asylum who shall have had such person under observation.

(ii) Every person ordered under this section to be received into a lunatic asylum for observation shall be received into the asylum named in the order and be there detained under observation for the period stated in the order or for such shorter period as the Court which made the order may direct.

Order for reception into asylums.

32. Except as otherwise in this or in any other Enactment provided, no person shall be received into a lunatic asylum without an order under the hand of some person in the form B in the second schedule together with such statement of particulars as is contained in the said form B nor, unless such person has been found lunatic under an enquiry under Part I of this Enactment, without the medical certificate containing the particulars in the form A in the second schedule of two persons, each of whom shall be a physician or surgeon and one of whom shall be a surgeon in the employment of the Government. When such order is presented the visitors or managers of the asylum before admitting the lunatic into the asylum may require the friends of the said lunatic to engage to pay the expenses which may be incurred for the lodging, clothing, medicine, and care of the lunatic, unless it shall appear to the said visitors that they have not sufficient means of doing so.

Order of discharge.

33. Two of the visitors of any asylum, of whom one shall be a Medical Officer, may by writing under their hands order the

discharge of any person detained in such asylum otherwise than under Section 31. When such order is given, if the person is detained under the order of any public officer, notice of the order of discharge shall be immediately communicated to such officer.

Order of discharge on undertaking of relative.

34. When any relative or friend of a lunatic detained in any asylum under the provisions of Section 29 or Section 30 is desirous that such lunatic shall be delivered over to his care and custody, he may make application to any Magistrate of the First Class in the Federated Malay States, and the Magistrate, if he think fit, after communication with the visitors or with one of them being a Medical Officer, and upon the undertaking in writing of such relative or friend to the satisfaction of the said Magistrate or Officer that such lunatic shall be properly taken care of and shall be prevented from doing injury to himself or others, may make an order for the discharge of such lunatic and such lunatic shall thereupon be discharged.

Provision for removal of lunatics from one asylum to another.

35. The Resident of any State may order the removal of any lunatic from any public asylum in such State to any other public asylum in the Federated Malay States, and such order shall be sufficient authority for the removal of such lunatic and also for his reception into the asylum to which he is ordered to be removed.

Amendment of orders.

36. If after the reception of any lunatic into an asylum it appear that the order or the medical certificate or certificates upon which he was received is or are defective or incorrect, the same may at any time afterwards be amended by the person or persons signing the same with the sanction of two or more of the visitors of the said asylum, one of whom shall be a Medical Officer.

Order and certificate justify detention and recapture.

37. Every person received into a lunatic asylum under any such order as is required by this Enactment accompanied, unless the order be under Section 31, by the requisite medical certificate may be detained therein until he be removed or discharged as authorized by this Enactment and in case of escape may by virtue of such order be retaken by the manager of such asylum or any officer or servant belonging thereto or any other person authorized in that behalf by the said manager or any Police Officer and conveyed to and received and detained in such asylum.

Government when to pay for lunatic's maintenance.

38. When any lunatic is sent to a licensed asylum by order of a Magistrate under Section 29 or Section 30 or of the Court of a Judicial Commissioner under Section 31 and when a lunatic is admitted into such asylum under Section 32 and no engagement has been taken from the friends of the lunatic for the payment of expenses under Section 32, the expense of the lodging, maintenance, clothing, medicine, and care of such lunatic shall be paid by the Government to the manager of such asylum.

Order for payment of cost of lunatic's maintenance.

39. The Magistrate by whom any lunatic has been sent to a lunatic asylum, if it appear to him that such lunatic has an estate applicable to his maintenance and more than sufficient to maintain his family or that any person is legally bound to maintain and has the means of maintaining such lunatic, may apply to the Court of a Judicial Commissioner, and the said Court shall enquire into the matter in a summary way and, on being satisfied that such lunatic has an

estate applicable to his maintenance or that any person is legally bound to maintain and has the means of maintaining such lunatic, shall make an order for the recovery of the charges of the lodging, maintenance, clothing, medicine, and care of such lunatic out of such estate or from such person. Such order may be enforced in the same manner as any decree made by the said Court in a suit in respect of the property or person therein mentioned. Any movable property which may be in the possession of a lunatic found wandering at large may be sold by order of a Magistrate and the proceeds thereof (or such part of the same as may be necessary) applied towards the payment of the charge of the lodging and maintenance of the lunatic and of any other expenses incurred on his behalf.

Saving of liability of relatives.

40. The liability of any relative or person to maintain any lunatic shall not be taken away or affected by any provision contained in this Enactment.

PART III.

GENERAL PROVISIONS.

Saving of powers of Court of Judicial Commissioner.

41. Nothing contained in Part II shall be taken to interfere with the power of the Court of a Judicial Commissioner over any person found to be lunatic under Part I.

Appeal.

42. Any person aggrieved by any decision or order of the Court of a Judicial Commissioner made under the provisions of this Enactment may, except in the case of an order under Section 31, appeal to the Court of Appeal; provided that no such appeal shall, except by special leave of the Court of Appeal or of a Judicial Commissioner, be brought after the expiration of one month from the date of the decision or order appealed against.

Rules.

43. (i) The Resident of any State may, with the approval of the Chief Secretary to Government, from time to time make rules for the better carrying out of the provisions of this Enactment, and such rules upon publication in the *Gazette* shall have in such State the force of law.

(ii) Any person committing a breach of any such rules shall on conviction be liable to a fine not exceeding one hundred dollars.

Protection of persons acting under this Enactment.

44. (i) No prosecution shall be instituted or action brought against any person for anything done or *bonâ fide* intended to be done in the exercise or supposed exercise of the powers given by this Enactment or by any rules made thereunder—

(*a*) without giving to such person one month's previous notice in writing of the intended prosecution or action and of the cause thereof;

(*b*) after the expiration of three months from the date of the act in respect of which the prosecution or action is intended to be instituted or brought;

(*c*) in the case of an action, after tender of sufficient amends.

(ii) In every action so brought it shall be expressly alleged that the defendant acted either maliciously or negligently and without

reasonable or probable cause, and if at the trial the plaintiff shall fail to prove such allegation judgment shall be given for the defendant.

(iii) Though judgment be given for the plaintiff, the plaintiff shall not have costs against the defendant unless the Court before which the action is tried shall certify its approbation of the action.

First Schedule.

ENACTMENTS REPEALED.

State.	No. and year.	Short title.
Perak	12 of 1898	Lunacy Enactment, 1898
Selangor	12 of 1898	Do.
Negri Sembilan ..	19 of 1898	Do.
Pahang	16 of 1898	Do.

Second Schedule.

FORM A.

Certificate of Medical Officer.

I, the undersigned (here enter name and official designation), hereby certify that I on the.....day of....., 19.., at..... personally examined (here enter name and residence of lunatic) and that the said.....is a lunatic (or an idiot or a person of unsound mind) and a proper person to be taken charge of and detained under care and treatment and that I have formed this opinion on the following grounds, namely :

STATEMENT.

1. Facts indicating insanity observed by myself (here state the facts).

2. Other facts, if any, indicating insanity communicated to me by others (here state the information and from whom).

Dated the.....day of....., 19..

(Signed).....

FORM B.

Order for the Reception of a Private Patient.

I, the undersigned, hereby request you to receive A. B., a lunatic (or an idiot or a person of unsound mind), as a patient into your asylum. Subjoined is a statement respecting the said A. B.

Signed) Name.....

Occupation (if any).....

Place of abode.....

Degree of relationship, if any, or other circumstances of connection with the patient.....

Dated the .....day of....., 19...

To.....Superintendent of the Asylum at (describing the asylum).

[Where the person signing the statement is not the person who signs the order, the following particulars concerning the person signing the statement are to be added, namely:

Name.....

Occupation (if any).....

Place of abode.....

Degree of relationship (if any) or other circumstances of connection with the patient.]

STATEMENT.

[If any of the particulars in this statement be not known, the fact to be so stated.]

Name of patient in full.....

Sex and age.....

Married, single, or widowed.....

Condition of life and previous occupation, if any.....

Religion, as far as known.....

Previous place of abode.....

Whether first attack.....

Age, if known, on first attack.....

When and where previously under care and treatment.....

Duration of existing attack.....

Supposed cause.....

Whether subject to epilepsy.....

Whether suicidal.....

Whether dangerous to others.....

Whether found lunatic by the Supreme Court.....

Date of such decision.....

Whether any member of patient's family has been or is affected with insanity.....

(Signed).....

ENACTMENT NO. 13 OF 1915.

As amended by Fed. E. 16 of 1916.

An Enactment to regulate the possession, sale, import, and export of certain Arms.

ARTHUR YOUNG,
President of the Federal Council.

[2nd December, 1915.
1st January, 1916.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as " The Arms Enactment, 1915," and shall come into force on such day as shall be appointed by the Chief Secretary to Government by notification in the *Gazette*.

(ii) Nothing in this Enactment contained shall apply to any arms which are the property of, or under the immediate control of, the Government of the Federated Malay States or of any of them or which form part of the equipment of any recognized naval or military force or of the police force of the Federated Malay States or of persons employed in the Prisons Department of the Federated Malay States or of the ordinary armament of any ship or which are in or upon any ship and required for the service thereof or the personal use of the crew or passengers thereof.

(iii) Upon the coming into force of this Enactment the Enactments mentioned in the first schedule shall be repealed ; provided that all licenses and permits issued under any Enactment hereby repealed which were in force immediately prior to the commencement of this Enactment shall, so far as may be consistent with the provisions of this Enactment, be deemed to have been issued under this Enactment.

Interpretation.

2. In this Enactment and in rules thereunder, unless the context otherwise requires—

" Arms " includes a fire-arm, air guns, air pistols, automatic guns, automatic pistols, and any other kind of gun or pistol from which any shot, bullet, or other missile can be discharged or noxious fumes can be emitted, but does not include any arms other than as aforesaid.

" Pistol " means a fire-arm or other weapon of any description from which any shot, bullet, or other missile can be discharged and of which the length of barrel, not including any revolving, detachable, or magazine breech, does not exceed nine inches.

" Police district " means any area in a State constituted a police district by the Resident of such State by notification in the *Gazette* and, unless and until such districts are so constituted, means an ordinary administrative district or sub-district.

Licenses for arms and permits to use arms.

3. (i) Licenses for arms and permits to use arms shall be issued in accordance with the provisions of this Enactment.

(ii) Subject to the provisions of any law in force for the time being regulating the carrying of arms in public places or otherwise, every such license shall authorize the person named therein to have in his possession and to carry and use within the State in which the license is issued any arms described therein and shall be substantially in the Form A in the second schedule, and every such permit shall authorize the person named therein to have in his possession and to carry and use within the State in which the permit is issued any arms described therein provided that a license in respect of such arms has been duly issued and is in force in any State of the Federated Malay States and shall be substantially in the Form B in the second schedule.

(iii) Any such license or permit which shall have been endorsed as effective by the senior police officer in any police district of a State other than the State wherein the same was issued shall thereupon be of the same effect in the State where it was so endorsed as in the State wherein it was issued.

Possession of arms prohibited except under license or permit.

4. (i) No person shall in any State have in his possession or custody any arms except under a license or permit in that behalf under this Enactment and in accordance with the conditions of such license or permit and such conditions as may be prescribed.

E. 16 of 1916.

(ii) Any person who * * * shall have in his possession or custody any arms without such license or permit or otherwise than in accordance with such conditions as aforesaid or who while holding such permit shall have in his possession or custody any arms in respect of which no license is in force shall be liable to imprisonment of either description for a term not exceeding three years or to a fine not exceeding five hundred dollars in respect of every such arm or to both.

(iii) The following persons shall be exempt from the operation of this section to the extent specified :

(*a*) the High Commissioner, the Rulers, the Chief Secretary to Government, and all Members of the Federal Council or of any State Council ;

(*b*) gunsmiths, auctioneers, and common carriers having in their possession in the ordinary course of their business and not for use any arms for which a license has been issued and is in force, in respect of such arms only.

Persons exempt under paragraph (*a*) of this sub-section shall furnish annually in writing to the Chief Police Officer of the State in which they reside particulars of all arms in their possession in respect whereof no license is in force, with the name of the maker and the number (if any) marked thereon for the purposes of identification.

(iv) Where two or more persons carry any arms in parts, each of such persons shall for the purposes of this section be deemed to have such arms in his possession.

Period of exemption in certain cases.

E. 16 of 1916.

4A. *No person shall be deemed guilty of any contravention of this Enactment or of any rule thereunder by reason only of the fact that during the month of January in any year he has in his possession or*

custody any arms in respect of which no license or permit is in force ; provided that such person had such arms in his possession or custody on the thirty-first day of December of the preceding year under a license or permit issued in that behalf under this Enactment.

Licenses and permits how obtained.

5. (i) A license for arms or a permit to use arms under this Enactment may be obtained in any State by application made in writing to the Chief Police Officer of such State, subject to the issue thereof being expressly approved by such Chief Police Officer ; provided that if during the year or any part of the year immediately preceding the year in which application is made the applicant has held a license or permit for the arms referred to in the application and such license or permit has expired by effluxion of time and has not been suspended or cancelled, application for a new license or permit for the same arms may be made verbally or in writing to and such license or permit may, except as provided by sub-section (ii), be granted by any police officer not below the rank of Inspector.

(ii) No license or permit for a pistol shall be issued except with the express approval of the Chief Police Officer.

(iii) No license or permit shall be issued in the name of any partnership, company, or corporation.

(iv) The Chief Police Officer may require as a condition precedent to the issue of a license or permit for a pistol that the applicant shall make a deposit of fifty dollars either by cash paid into the Treasury or by delivery at the Treasury of a bank receipt evidencing the payment of the said amount to the credit of the Government with such bank ; interest allowed by a bank on any such amount shall be payable to the depositor. Every person who has made a deposit under this section shall on demand be entitled to receive from the Chief Police Officer an order on the Treasury authorizing the return of such deposit ; provided that no such deposit shall be returned until after the completion of one month from the date of expiration of the license or permit in respect whereof the deposit was made or, in the case of a license, from the date of the duly authorized transfer to another person of the pistol to which such license relates. Every deposit made under this section shall be at all times liable to be applied in satisfaction of any fine inflicted upon the depositor by any Court.

(v) No license or permit shall be issued unless the arms in respect of which it is applied for be produced.

(vi) Every license or permit shall expire on the 31st day of December of the year in respect of which it is issued.

(vii) Every officer who shall issue, or endorse as effective, any license or permit under this Enactment shall enter particulars thereof in a register to be kept at the office of the senior police officer in the police district wherein such issue or endorsement takes place.

Marking of arms.

6. Whenever application is made for a license for any arms not marked with letters or figures or in such other manner as that the same may be readily identified, the officer to whom application is made may, before issuing the license applied for, cause such arms to be marked with some permanent mark whereby the same may be afterwards known and identified, but in such manner as not to injure

or disfigure the same ; and any person who shall wilfully obliterate, deface, alter, counterfeit, or forge any such mark, or shall fraudulently mark any arms with any mark resembling or intended to resemble any mark used for marking arms under this section shall be liable to a fine not exceeding two hundred dollars.

Lost licenses and permits.

7. If a license or permit issued under Section 5 shall be destroyed, defaced, or lost, the person named therein may, on application to any officer authorized to issue licenses or permits and on satisfying him that the application is made in good faith, obtain from him a certificate substantially in the form C in the second schedule and such certificate shall be in lieu of and of the same force and effect as the former license or permit.

Arms lost or destroyed.

8. Whenever any arms in respect whereof a license is in force shall be lost or destroyed, the person named in the license and any other person who may have been in possession of such arms immediately before the loss or destruction thereof shall within fourteen days after becoming aware of such loss or destruction make a report thereof to the senior police officer in the police district in which such persons respectively reside.

Dealers' licenses.

9. (i) Licenses to deal in and repair arms in any State, which shall be substantially in the form D in the second schedule, may be issued by the Chief Police Officer of such State ; and no person not so licensed shall make, repair, or keep or expose for sale any arms or any part of any arms.

(ii) Every such license shall expire on the 31st day of December of the year in respect of which it is issued.

(iii) Every person so licensed shall at all times keep books containing an accurate record of all arms manufactured by him or received by him into stock or for repair and of all arms sold by him and of the marks by which all arms so sold may be identified, with the date of sale and the name and address of the purchaser and shall, on demand, produce them for the inspection of any police officer above the rank of sergeant at such place and time as the police officer may reasonably require.

(iv) Every such person shall also within the first seven days of each calendar month furnish to the Chief Police Officer of the State to which his license relates particulars, substantially in the form E in the second schedule, of his stock and of all arms purchased or imported and of all arms sold by him during the last preceding calendar month.

(v) Any person who shall contravene the provisions of sub-section (i) shall be liable to imprisonment of either description for a term not exceeding three years or to a fine not exceeding five hundred dollars or to both ; and any person who shall contravene the provisions of sub-section (iii) or (iv) shall be liable to a fine not exceeding two hundred and fifty dollars.

Obstructing inspection of stock-in-trade.

10. (i) Every person licensed under Section 9 shall on demand of any police officer above the rank of sergeant submit his stock-in-trade to the inspection of such officer.

(ii) Whoever intentionally conceals the stock-in-trade of any such person from a police officer above the rank of sergeant or wilfully

refuses to point out where the same is kept shall be liable to imprisonment of either description for a term not exceeding two years or to a fine not exceeding two hundred and fifty dollars or to both.

Boards to be affixed at dealers' shops.

11. (i) Every person licensed under Section 9 shall affix in a conspicuous position outside the door of his shop or place of business a board bearing the words " Licensed to Deal in and Repair Arms " (or as the nature of his license may be) distinctly printed in letters not less than two inches long.

(ii) Any person who shall fail to comply with the provisions of this section shall be liable to a fine not exceeding fifty dollars.

License for purchase or transfer.

12. (i) No person shall take delivery of any arms on purchase or transfer without first obtaining a license authorizing the purchase or transfer thereof ; such license shall have force for one month from the date of issue and no longer.

(ii) No person shall deliver to any other person any arms on sale or transfer except upon production to him of a license authorizing the purchase or transfer thereof.

(iii) The purchaser or transferee of any arms shall endorse the said license with the date of delivery and particulars of the arms purchased or transferred and shall return such license within one month from such date to the officer by whom the same was issued ; and the vendor or transferor shall, if he be the holder of a license to deal in arms, add to the record of sale required to be kept by him under Section 9 the number, date, and other particulars contained in the said license.

(iv) Any person who shall contravene any of the provisions of this section shall be liable to a fine not exceeding one hundred dollars.

(v) Licenses for the purchase or transfer of arms in any State which shall be substantially in the form F in the second schedule may be issued by the Chief Police Officer of such State.

License import.

13. (i) No person shall import any arms or parts of arms into any State either by sea or land from a place without the Federated Malay States unless he hold a license in that behalf.

(ii) Such license may be obtained on application to the Chief Police Officer of the State into which the arms or parts of arms are upon importation into the Federated Malay States intended to be conveyed and shall be substantially in the form G in the second schedule.

(iii) Every holder of such license shall endorse thereon full particulars of all arms or parts of arms imported thereunder and shall return such license to the officer by whom the same was issued within one month from the expiration of the term allowed thereby.

Arms sent by post.

14. Arms sent through the post shall not be delivered unless or until there be produced at the post office of destination a license in respect thereof under Section 12 or Section 13 according as the post office whence the arms were despatched is within or without the Federated Malay States.

License to export.

15. (i) No person shall export any arms from any State either by sea or land to a place without the Federated Malay States unless he hold a license in that behalf.

(ii) Such license may be obtained on application to the Chief Police Officer of the State from which the arms are to be exported and shall be substantially in the form H in the second schedule.

Ports and places of import and export.

16. The Resident of a State may from time to time, with the approval of the Chief Secretary to Government, by notification in the *Gazette* declare that arms or particular classes of arms shall not be imported into or exported from such State except at ports or places specified in such notification, and no arms shall be imported into or exported from such State contrary to the terms of such notification.

Marking of cases; notice of importation.

17. When arms are imported into a State for the purposes of trade or profit from any place without the Federated Malay States, the case or package, if any, containing the same shall be distinctly and legibly marked with the words " Defensive Arms " in the English language or shall be marked in such other manner as may be prescribed; and when the importation is to be by sea, notice of the intended importation and of the ship or boat whereby the same is to be effected shall be given to the principal officer of Customs at the port of import before the arrival of such ship or boat at such port.

Declaration of arms on importation.

18. Every person entering a State from any place without the Federated Malay States who has in his possession or among his baggage any arms and every consignee receiving any arms imported into a State from any place without the Federated Malay States shall make a declaration thereof at such time and place, in such manner and with such particulars as may be prescribed and shall at the same time produce the license issued under Section 13 for the importation of such arms and the license or other authority (if any) for the exportation of such arms from the Colony.

Penalty for unlawful importation or exportation.

19. Any person who shall contravene the provisions of sub-section (i) of Section 13 or of Section 15 shall be liable to imprisonment of either description for a term not exceeding three years or to a fine not exceeding five hundred dollars or to both; and any person who shall contravene the provisions of sub-section (iii) of Section 13 or of Section 16, 17, or 18 shall be liable to a fine not exceeding five hundred dollars.

Permit to land or tranship arms.

20. (i) The Chief Police Officer of a State may upon application by the owner, agent, or master of any ship or boat arriving or about to arrive at any port in such State grant a permit to such owner, agent, or master authorizing him to land any arms consigned upon such ship or boat to such port or for transhipment at such port.

(ii) The Chief Police Officer of a State may upon application by the owner, agent, or master of any ship or boat arriving or about to arrive at any port of such State and having on board any arms for transhipment at such port grant to such owner, agent, or master a permit to tranship such arms.

(iii) Such owner, agent, or master shall thereupon cease to be liable to any prosecution for importing such arms without a license; but the granting of such permit shall not render any other person free from any prosecution for importing such arms without a license.

Concealing unlawfully imported arms.

21. Whoever knowingly conceals any arms imported without a license into any State from a place without the Federated Malay

States shall be liable to imprisonment of either description for a term not exceeding two years or to a fine not exceeding five hundred dollars or to both.

Resident may prohibit importation or exportation.

22. (i) The Resident of a State may from time to time, with the approval of the Chief Secretary to Government, by notification in the *Gazette*, prohibit for a period to be mentioned in such notification either the importation into such State or the exportation from such State of any arms or parts of arms or of particular kinds of arms or parts of arms without a special permit signed by himself.

(ii) Any such prohibition of exportation may either be absolute or may relate to such place or places as shall be specified in the notification ; and any person who shall take or send any article out of a State by sea or land with the intention that it shall ultimately reach a particular place either directly or indirectly shall for the purposes of this section be deemed to export such article to such place.

(iii) Any person who shall import or export into or from any State any arms or parts of arms in contravention of any notification published under this section or in breach of the restrictions and conditions subject to or upon which any special permit is issued shall be liable to imprisonment of either description for a term not exceeding one year or to a fine not exceeding two thousand five hundred dollars or to both.

Ship used for illegal importation or exportation.

23. (i) If any ship or boat is used for the importation into or exportation from a State of any article in contravention of a notification published under Section 22, the master and owner thereof shall be liable to a fine not exceeding two thousand five hundred dollars and the ship or boat may be detained by order of the Court before which the conviction is had until security has been given for a sum not exceeding two thousand five hundred dollars.

(ii) Any arms or parts of arms which are subject to a prohibition under Section 22 and which are found on a ship or boat in any State wherein such prohibition is in force shall be deemed evidence that the ship or boat has been used for the importation or exportation of the same, as the case may be, contrary to the provisions of this Enactment, unless it is proved to the satisfaction of the Court that the owner and master did not know and could not reasonably have known of such user of the ship or boat and that none of the officers, their servants, the crew, or any persons employed on board the ship or boat were implicated therein.

License or permit may be refused.

24. (i) Any police officer having authority in any State to issue any license or permit under this Enactment may, with the approval of the Chief Police Officer of such State, refuse any application for such license or permit without assigning any reason for such refusal and may, with such approval as aforesaid, for reasons of public safety to be duly recorded by him or on other prescribed grounds cancel or suspend any license or permit when issued.

(ii) No license or permit shall be issued to any person under the age of sixteen years.

Search for arms under warrant of Court.

25. (i) Whenever the Court of a Magistrate has reason to believe that any person residing within the limits of its jurisdiction

(*a*) has in his possession any arms without a license or permit or in contravention of the conditions upon which any license or permit is issued or for any unlawful purpose, or

(*b*) has in his possession any arms whereof he cannot be left in possession without danger to the public peace,

such Court may by warrant directed to any police officer or police officers authorize such officer or officers by day or by night

(1) to enter and search the house or premises occupied by such person or any house or premises wherein the Court has reason to believe that such arms are to be found ; and

(2) to seize and detain such arms ; and

(3) to arrest any person found in such house or on such premises whom such officer or officers has or have reason to suspect to have committed any offence punishable under this Enactment.

(ii) In the execution of such warrant any person to whom such warrant is directed may employ such assistants as may be necessary.

(iii) Whoever upon a search being made under this section having in his possession or custody any arms or knowing where any arms are concealed refuses to produce or point out the same to the person making the search or intentionally conceals the same shall be liable to imprisonment of either description for a term not exceeding two years or to a fine not exceeding five hundred dollars or to both.

Search for arms by police or District Officer.

26. (i) The Chief Police Officer of a State or any District Officer may for reasons to be first recorded by him authorize by name in writing any police officer not below the rank of corporal to search any house or other building or place or any ship or boat or the houses in any locality within his jurisdiction for arms and to seize and convey to a police station all arms found in the course of such search for which a license or permit is not produced and may, in like manner, authorize any such officer to require any person or the persons living in any locality within his jurisdiction to produce his or their license or licenses and to produce or account for the arms described therein.

(ii) Any power which a Chief Police Officer or a District Officer is by this section empowered to authorize to be exercised by a police officer not below the rank of corporal may be exercised by the Chief Police Officer or by the District Officer in person.

Penalty.

27. If it be proved before a Magistrate that any person has failed to satisfactorily account to an officer authorized by or under Section 26 for any arms described in any license issued to him during the period for which such license is in force or after its expiry, suspension, or cancellation, such person shall be liable to a fine not exceeding one hundred dollars.

Detention of arms by the police.

28. Any arms produced to or discovered by a police officer or other officer in any State under Section 5 or Section 26 may, in any case in which the Chief Police Officer of such State for reasons of public safety to be duly recorded by him so directs, be detained by the police for any period not exceeding one month ; provided that no arms shall in any State be detained under this section contrary to the orders of the Resident of such State.

Entry on place where arms are used.

29. Any police officer may enter and remain on any land or premises other than a dwelling-house at and for such time as may be reasonably necessary to enable him to ascertain whether a person carrying or using any arms on such land or premises has a license or permit in that behalf.

Where licensee under disability.

30. If a person licensed to deal in arms or to import arms dies or becomes insolvent or bankrupt or mentally incapable or otherwise under disability, the person carrying on the business of such licensee shall not be liable to any penalty or forfeiture for acting under the license during such reasonable time as may be necessary to allow him to make application for a new license, and such person shall be deemed to be the holder of the said license for all purposes under this Enactment and to be liable in the same way as if he were the original holder thereof until a new license is granted or refused.

Deposit of arms at police station.

31. (i) Any person whose possession of any arms shall have become unlawful in consequence of the expiry, suspension, or cancellation of a license or permit shall without unnecessary delay deposit the arms at the nearest police station.

(ii) If the owner of any arms so deposited shall not within six months from the date of deposit produce a license authorizing him to possess the same and apply for the delivery thereof, such arms shall be forfeited.

Information of offences.

32. If any penghulu or police officer shall fail to inform against any person whom he shall have good reason to know or believe to be guilty of possessing any arms without a license or permit in that behalf, such penghulu or police officer shall be liable to a fine not exceeding fifty dollars.

Ownership.

33. The occupier of any house or premises in which any arms shall be found shall be deemed, until the contrary is proved, to be the possessor of such arms for the purposes of this Enactment.

Rewards to informers.

34. Any Magistrate before whom a conviction may be had under this Enactment may direct that any sum not exceeding one half of any fine recovered upon such conviction shall be paid to any person upon whose information or evidence such conviction was obtained.

Police have certain powers of Customs officers.

35. Police officers not below the rank of corporal shall, for the purpose of search for arms unlawfully imported or exported or attempted to be imported or exported into or from the Federated Malay States or any of them, have the powers which are by Sections 6 and 25 of the Customs Regulations Enactments, 1907, vested in officers of Customs and may make such search of the baggage of passengers and of goods arriving in or departing from the Federated Malay States or any of them as may be necessary in order to ascertain whether any arms are contained therein.

Forfeitures.

36. (i) All arms with regard to which there shall have been any breach of or offence against the provisions of this Enactment or of any rule made thereunder or of any restriction or condition subject to or upon which any license or permit shall have been granted may be seized by any police officer or officer of Customs and together with the receptacles containing the same shall be liable to forfeiture by order of a Magistrate.

(ii) All arms which may be found without an apparent owner may be seized by any police officer and if, after such notice as a Magistrate may direct, no owner appears the same may by order of a Magistrate be forfeited.

Abetment and attempt.

37. Whoever abets the commission of any offence punishable under this Enactment or any rules made thereunder or attempts to commit any such offence and in such attempt does any act towards the commission of the same shall be punished as if he had committed the offence.

General penalty.

38. Whoever is guilty of any contravention of this Enactment or of any rule thereunder for which no penalty is otherwise expressly provided shall be liable to a fine not exceeding one hundred dollars.

Liability of principal and agent.

39. (i) Any person licensed under this Enactment who would be liable under the provisions of this Enactment or of any rules thereunder to any punishment, penalty, or forfeiture for any act, omission, neglect, or default shall be liable to the same punishment, penalty, or forfeiture for every such act, omission, neglect, or default of any agent or servant employed by him in the course of his business as such licensed person if such act, omission, neglect, or default be committed by such agent or servant in the course of his employment by such licensed person.

(ii) Any agent or servant employed by a person licensed under this Enactment in the course of his business as such licensed person shall also be liable to every punishment, penalty, or forfeiture prescribed by this Enactment or by any rules thereunder for such acts, omissions, neglects, or defaults as fully and effectually as if such agent or servant had been the person licensed.

Search of vessels.

40. (i) (*a*) If any ship or boat in any port of a State is suspected of having on board any article the importation or exportation of which into or from such State is absolutely prohibited by a notification under Section 22 and which is not exempted by this Enactment or by any special permit thereunder, or

(*b*) If any ship or boat about to leave any port of a State bound for any particular country, territory, or place is suspected of having on board any article the exportation of which from such State to such country, territory, or place is so prohibited and which is not exempted as aforesaid,

the Chief Port Officer of the port may issue a search warrant directed to any boarding officer or boarding officers or any police officer not below the rank of sergeant in such warrant named or referred to.

(ii) In the execution of such warrant any person to whom such warrant is directed may

(1) board any ship or boat in such warrant named or described either with or without assistants, and

(2) forcibly enter every part of such ship or boat, and

(3) arrest any person reasonably suspected of being guilty of an offence against this Enactment.

Presumptions.

(iii) If upon any search made under this section

(*a*) any article the importation or exportation of which into or from a State is absolutely prohibited by any notification under Section 22 and which is not exempted by this

Enactment or by any special permit thereunder is found on board of any ship or boat in any port of such State, or

(*b*) any article the exportation of which from a State to any particular country, territory, or place is so prohibited and which is not exempted as aforesaid is found on board of any ship or boat about to leave any port of such State for such country, territory, or place,

it shall be presumed, unless and until the contrary be proved, that such article was attempted to be imported or exported, as the case may be, contrary to the provisions of this Enactment and such ship or boat may be detained for the purpose of removing any such article therefrom and the same may be removed therefrom.

Persons conveying arms may be apprehended without warrant.

41. (i) If any person is found carrying or conveying any arms in such a manner or under such circumstances as to afford reasonable grounds for suspicion that the same may be used for any unlawful purpose dangerous to the public peace, any person may without warrant apprehend such person so found and detain him in custody.

(ii) If any person be apprehended by a person not being a police officer, he shall be forthwith taken to the nearest or other police station or be handed over to a police officer.

Arrest by police without warrant.

42. Any police officer may arrest without warrant any person found committing or attempting to commit or employing, aiding, or assisting any person to commit an offence against Section 4, 9 (i), 13 (i), or 15 (i) or an offence punishable under Section 10 (ii), 21, or 25 (iii).

Persons arrested to be taken to police station.

43. Every person arrested by virtue of any power given by this Enactment shall, together with any article as to which any offence may have been committed or attempted to be committed, be taken to a police station and conveyed as soon as conveniently may be before the Court of a Magistrate to be dealt with according to law.

Imposition of fine by Magistrate.

44. The Court of a Magistrate of the First Class before which a person may be convicted of an offence punishable under this Enactment may, notwithstanding the provisions of any other law, impose the full fine to which the offender is liable under this Enactment.

Fees.

45. The fees specified in the third schedule shall until rescinded or altered under Section 46 be charged in respect of the various matters and things enumerated in the said schedule.

Rules.

46. (i) The Chief Secretary to Government may from time to time make rules for any of the following purposes, that is to say—

(*a*) to rescind, alter, or add to any of the fees or forms prescribed by this Enactment ;

(*b*) to regulate the importation, exportation, landing, transhipping, manufacture, sale, and purchase of arms ;

(*c*) to provide for the marking of arms for the possession of which a license is issued ;

(*d*) to regulate the manner in which applications for licenses or permits shall be made ;

(*e*) to regulate the conditions and restrictions on and subject to which licenses and permits shall be granted and the issue of licenses and permits generally and the grounds on which they may be suspended or cancelled ;

(*f*) to provide for the furnishing of information in respect of arms by persons in possession thereof ;

(*g*) to direct by whom and in what manner fees payable under this Enactment are to be collected and accounted for ;

(*h*) to regulate the disposition, destruction, or sale of articles forfeited under this Enactment or detained under Section 22 ;

(*i*) generally to give effect to the provisions of this Enactment ;

and may restrict the operation of any such rules to particular States, districts, or areas.

(ii) The Chief Secretary to Government may in making any rules prescribe the fine with which contravention thereof shall be punishable, but so that such fine shall not exceed one thousand dollars.

(iii) Rules made under this section shall be published in the *Gazette* and shall thereupon have the same force and effect as if enacted in this Enactment.

Power to exempt.

47. The Resident of a State may from time to time, with the approval of the Chief Secretary to Government, by notification in the *Gazette*, exempt any arms or classes of arms within such State or within any part of such State from the operation of all or any of the provisions of this Enactment and may in like manner vary or rescind any exemption so notified.

FIRST SCHEDULE.

ENACTMENTS REPEALED.

State.	No. and year.	Short title.
Perak ..	4 of 1902	The Fire-arms Enactment, 1902
Selangor ..	12 of 1902	Do.
Negri Sembilan	8 of 1902	Do.
Pahang ..	9 of 1902	Do.

SECOND SCHEDULE.

FORM A.

LICENSE FOR ARMS.

This license authorizes A. B., of....., to possess, carry, and use the arms hereunder specified until the 31st day of December next following the day on which this license is issued :

(*Here enumerate all the arms included in the license, with full particulars for identification.*)

Issued this.....day of....., 19..

Place.....

Fee.....

.....

Police Officer.

FORM B.

PERMIT TO USE ARMS.

A. B., of....., is hereby permitted to carry and use the arms hereunder specified until the 31st day of December next following the day on which this permit is issued :

(*Here enumerate all the arms permitted to be used, with full particulars for identification.*)

Issued this.....day of....., 19..

Place.....

Fee.....

.....

Police Officer.

FORM C.

CERTIFICATE IN LIEU OF LOST $\frac{\text{LICENSE}}{\text{PERMIT}}$ FOR ARMS.

Whereas on the ..... day of ....., 19.., a $\frac{\text{license}}{\text{permit}}$ was issued to A. B., of ....., by....., for the arms hereunder specified : And whereas it has been proved to my satisfaction that the said $\frac{\text{license}}{\text{permit}}$ has been (*destroyed, defaced, or lost, as the case may be*) : Now this certificate is issued to the said A. B. to be in lieu of the said $\frac{\text{license}}{\text{permit}}$ and of the like force and effect.

(*Here enumerate the arms.*)

Issued this.....day of....., 19..

Place.....

Fee.....

.....

Police Officer.

FORM D.

LICENSE TO DEAL IN ARMS.

A. B., of....., is hereby licensed to exercise the trade of (*a manufacturer of, or vendor and repairer of, as the case may be*) arms at.....in the district of.....

Issued this.....day of....., 19..

Place.....

Fee.....

.....

Police Officer.

FORM E.

PARTICULARS OF STOCK AND OF ARMS PURCHASED, IMPORTED, AND SOLD.

Month of ..... 191..	Rifles and carbines.	Breech-loading D.B. & S.B. guns.	Muzzle-loading guns.	Revolvers and pistols.	Other arms.	Reference to import or purchase licenses.	Remarks.
Stock in hand on ..							
Purchased or imported on ..							
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Balance in stock on ..							

FORM F.

License for Purchase or Transfer of Arms.

A. B., of....., is hereby licensed $\frac{\text{to purchase}}{\text{to obtain on transfer from X. Y.}}$ arms of the number and description hereunder specified within one month from the date hereof.

(*Here specify the number and description of arms.*)

Issued this.....day of....., 19..

Place.....

Fee.....

.....

Police Officer.

FORM G.

License to Import Arms.

A. B., of....., is hereby licensed to import into the Federated Malay States arms of the number and description hereunder specified within.....(*Here specify the period*) from the date hereof.

(*Here specify the number and description of arms.*)

Issued this.....day of....., 19..

Place.....

Fee.....

.....

Police Officer.

FORM H.

License to Export Arms.

A. B., of....., is hereby licensed to export from the Federated Malay States to.....arms of the number and description hereunder specified within.....(*Here specify the period*) from the date hereof.

(*Here specify the number and description of arms.*)

Issued this.....day of....., 19..

Place.....

Fee.....

.....

Police Officer.

THIRD SCHEDULE.

FEES.

	$	c.
Licenses and permits for arms:		
For each arm, per annum		50
For any number of arms the property of a theatrical or circus company, which arms are to be *bonâ fide* used in the performances to be given by such company		50
For a license to purchase or obtain transfer of arms		05
,, import arms		50
,, export arms		50
,, manufacture or deal in arms, per annum	100	00
,, repair arms, per annum ..	20	00

Provided that the fee to be charged for any annual license which is issued between the 1st of July and the 31st of December of the same year shall be only half of the annual fee.

ENACTMENT NO. 15 OF 1915.

As amended by Fed. E. 5 of 1916 and 4 of 1918.

An Enactment to make provision, complementary to the Fugitive Offenders Act, 1881, of the Imperial Parliament, with regard to Fugitive Offenders from the United Kingdom, British possessions and places to which the said Act may be from time to time applied.

ARTHUR YOUNG,
President of the Federal Council.

[27th November, 1915.
1st February, 1917.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as "The Fugitive Offenders Enactment, 1915," and shall come into force upon such date as the Chief Secretary to Government may by notification in the *Gazette* appoint.

(ii) Upon the coming into force of this Enactment the Enactments specified in the first schedule shall be respectively repealed to the extent mentioned in the last column thereof.

Interpretation

2. (i) In this Enactment, unless the contrary intention appears—

"Agreeing State" means any State, over which His Britannic Majesty extends his protection, whose Ruler, being desirous that the rendition of fugitive offenders as between his State and any other such States and between it and the Colony shall take place under the provisions of the Imperial Act, has entered into an agreement with His Britannic Majesty's Government in pursuance whereof an Order in Council shall have been made directing that the Imperial Act shall, subject to the conditions, exceptions, and qualifications (if any) contained in the Order, apply to such State or States as if they were British possessions and that Part II of the Imperial Act shall apply to the Colony and such State or States as if they were a group of British possessions, *and includes any British dominion in respect whereof an Order in Council shall have been made directing that Part II of the Imperial Act shall apply to the Federated Malay States and to such British dominion as if they were a group of British possessions ;* E. 4 of 1918.

"British dominion" includes the United Kingdom of Great Britain and Ireland and any British possession and also includes any place to which, not being a British possession, the provisions of the Imperial Act are by Order in Council, subject to the conditions, exceptions, and qualifications (if any) contained in the

Order, for the time being applied; for the purpose of this Enactment the Channel Islands and the Isle of Man shall be deemed to be part of England and of the United Kingdom and all territories or places to which the Imperial Act applies which are under one legislature shall be deemed to be one British dominion;

"Deposition" includes any affidavit or statement made upon oath;

"Federated Malay States" means the States of Perak, Selangor, Negri Sembilan, and Pahang;

"Fugitive" means a person accused or convicted of having committed in a British dominion, either before or after the commencement of this Enactment, an offence to which Part I of the Imperial Act applies and which is not excepted from the application of the Imperial Acts to the Federated Malay States by the Order in Council directing such application or by any subsequent Order; such person is in this Enactment referred to as a fugitive from the British dominion wherein such offence is alleged to have been committed or such conviction was had;

"Magistrate" means a Magistrate of the First Class;

"Order in Council" means an Order of His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British dominions beyond the Seas, Emperor of India, made by and with the advice of His Privy Council.

"The Colony" means the Colony of the Straits Settlements and includes the several Settlements of Singapore, Penang, Malacca, and Labuan and all other islands and places for the time being forming part of the Straits Settlements and all British waters adjacent thereto;

"The Imperial Act" means the Act passed in the 44th and 45th years of the reign of Her Majesty Queen Victoria, Chapter 69, shortly cited as "The Fugitive Offenders Act, 1881," and where an Order in Council is made *in pursuance of* "*The Fugitive Offenders (Protected States) Act*, 1915," directing that the Imperial Act shall subject to the conditions, exceptions, and qualifications (if any) contained in the Order, apply to the Federated Malay States as though the said States were a British possession the said Act shall apply and come into operation in accordance with the provisions of the said Order in Council. When used in reference to the Federated Malay States "The Imperial Act" means that Act as so applied to such States.

E. 5 of 1916.

(ii) In the Imperial Act as applied to the Federated Malay States "a Superior Court" means the Supreme Court and "Magistrate" means a Magistrate of the First Class.

(iii) The notice directed by Section 17 of the Imperial Act to be given to the Chief Officer of the Police of a possession or of the province or town where the prisoner is in custody will be given to the Public Prosecutor or the Deputy Public Prosecutor.

Publication of Order in Council in *Gazette* to be conclusive evidence.

3. The publication in the *Gazette* of an Order in Council applying the Imperial Act to any place not being a British possession shall be conclusive evidence in all Courts of Justice of such application and of the terms thereof; and the publication in the *Gazette* of an

Order in Council directing that Part II of the Imperial Act shall apply to the Colony and any State or States *or British dominion or dominions* as if they were a group of British possessions shall be conclusive evidence in all Courts of Justice that every such State *or British dominion* is an agreeing State within the meaning of that expression as defined in Section 2; and the Agreement in pursuance whereof the Order in Council has been made shall not be called for by or required to be given in evidence in any Court of Justice. E. 4 of 1918.

RETURN OF FUGITIVES.

Arrest, detention, and return of person for whom warrant has issued in British dominion.

4. (i) Where in any British dominion a warrant has been issued for the apprehension of a fugitive therefrom and such fugitive is or is suspected of being in or on the way to any of the Federated Malay States, such fugitive shall be liable to be apprehended, transported, and detained in manner provided by this Enactment and returned in pursuance of the provisions of Part I of the Imperial Act to the British dominion from which he is a fugitive.

Endorsed warrants and provisional warrants.

(ii) A fugitive may be apprehended under a warrant issued as aforesaid and duly authenticated and endorsed in accordance with Part I of the Imperial Act, or under a provisional warrant issued by a Magistrate in the Federated Malay States in pursuance of Part I of the Imperial Act; and a warrant so endorsed or a provisional warrant so issued shall be a sufficient authority to apprehend within any part of the Federated Malay States the fugitive named therein and to bring him before a Magistrate in the State wherein the warrant was endorsed or the provisional warrant issued, as the case may be, to be dealt with according to the provisions of Part I of the Imperial Act.

Information to fugitive on committal to prison.

5. Where the Magistrate commits the fugitive to prison, he shall inform the fugitive that he will not be surrendered until after the expiration of fifteen days and that he has a right to apply to the Supreme Court to direct that he be set at liberty, and any such application made by a fugitive shall be deemed to be an application for a writ of habeas corpus or other like process for the purpose of Part I of the Imperial Act.

Return of fugitive by warrant.

6. Any warrant issued in accordance with Part I of the Imperial Act for the return of a fugitive to the British dominion from which he is a fugitive shall be forthwith executed according to the tenor thereof and the fugitive named therein shall be delivered into the custody of the persons to whom the warrant is addressed or some one or more of them and shall be held in custody and conveyed by sea or otherwise to the British dominion from which he is a fugitive.

RETURN OF OFFENDERS AND WITNESSES TO THE COLONY AND AGREEING STATES.

Arrest, detention, and return of person for whom warrant has issued in the Colony or an agreeing State.

7. (i) Where in the Colony or in an agreeing State a warrant has been issued for the apprehension of a person accused or convicted of having committed in the Colony or in such State, either before or after the commencement of this Enactment, an offence punishable by law in the Colony or in such State which is not excepted from the application of Part II of the Imperial Act to the Federated Malay States by the Order in Council directing such application or

by any subsequent Order and such person is or is suspected of being in or on the way to any of the Federated Malay States, such person shall be liable to be apprehended, transported, and detained in manner provided by this Enactment and returned in pursuance of the provisions of Part II of the Imperial Act to the place in which the said warrant was issued.

Endorsed warrants and provisional warrants.

(ii) A person for whose apprehension such warrant as is in subsection (i) referred to has been issued may be apprehended under the said warrant, if duly authenticated and endorsed in accordance with Part II of the Imperial Act, or under a provisional warrant issued by a Magistrate in the Federated Malay States in pursuance of Part II of the Imperial Act, and a warrant so endorsed or a provisional warrant so issued shall be a sufficient authority to apprehend within any part of the Federated Malay States the person named therein and to bring him before the Magistrate who endorsed or issued the warrant or some other Magistrate in the Federated Malay States to be dealt with according to the provisions of Part II of the Imperial Act.

Return of prisoner to Colony or agreeing State.
E. 5 of 1916.

8. When an order is made in pursuance of Part II of the Imperial Act that a person apprehended under Section 7 be returned to the Colony or to an agreeing State and be for that purpose delivered into the custody of the persons to whom the warrant is addressed or any one or more of them, such person may be held in custody and conveyed by sea or otherwise to the Colony or agreeing State in which the warrant was issued.

Endorsement in the Federated Malay States of summons to a witness issued in the Colony or an agreeing State.

9. (i) Where a person required to give evidence on behalf of the prosecutor or defendant on a charge of an offence punishable by law in the Colony or in an agreeing State is or is suspected of being in or on his way to the Federated Malay States, and a Judge, Magistrate, or other officer in the Colony or in such agreeing State, as the case may be, who would have lawful authority to issue a summons requiring the attendance of such witness if such witness were within his jurisdiction has issued a summons for the attendance of such witness, a Magistrate in the Federated Malay States if satisfied that the summons was issued by a Judge, Magistrate, or officer having lawful authority as aforesaid may, if he think fit, endorse the summons with his name, and the witness on service of the summons, so endorsed, within the Federated Malay States and on payment or tender of a reasonable amount for his expenses shall obey the summons, and in default shall be liable to be tried and punished in the State wherein the summons was endorsed and shall be liable to the punishment imposed by law for the failure of a witness to obey such a summons.

(ii) The expression "summons" in this section includes any subpœna or other process for requiring the attendance of a witness.

TRIAL, ETC., OF OFFENCES.

Offences committed on boundary of Federated Malay States and British dominion.

10. A person accused of an offence committed on or within the distance of five hundred yards from the boundary between the Federated Malay States and any British dominion may, in pursuance of the Imperial Act be apprehended, tried, and punished in the Federated Malay States.

11. Where in any British Dominion an offence is committed on any person or in respect of any property in or upon any carriage, cart, or vehicle whatsoever employed in a journey or on board any vessel whatsoever employed in a navigable river, lake, canal, or inland navigation, and such carriage, cart, vehicle, or vessel passed in the course of the journey or voyage during which the offence was committed through any part of the Federated Malay States, the person accused of such offence may, in pursuance of the Imperial Act be tried in the Federated Malay States; and where the side, bank, centre, or other part of the road, river, lake, canal, or inland navigation along which the carriage, cart, vehicle, or vessel passed in the course of such journey or voyage is the boundary of any part of the Federated Malay States, a person may be tried for such offence in the Federated Malay States.

Offences committed on journey between Federated Malay States and British dominion.

12. A person accused of committing in any British dominion the offence (under whatever name it is known) of swearing or making any false deposition, or of giving or fabricating any false evidence, for the purposes of the Imperial Act or of this Enactment may, in pursuance of the Imperial Act if such deposition or evidence is used in the Federated Malay States, be tried in the Federated Malay States.

Trial of offence of false swearing or giving false evidence.

13. Where any part of this Enactment or of the Imperial Act provides for the trial in the Federated Malay States of a person accused of an offence committed outside the Federated Malay States, such person may be tried in any of the said States and such offence shall, for all purposes of and incidental to the apprehension, trial, and punishment of such person and of and incidental to any proceedings and matters preliminary or incidental thereto or consequential thereon and of and incidental to the jurisdiction of any Court or of any police or other officer with reference to such offence, and to any person accused of such offence, be deemed to have been committed in any of the Federated Malay States in which the person accused of the offence is to be or is tried for it.

Supplemental provision as to trial in Federated Malay States for offence committed elsewhere.

14. Where a warrant for the apprehension of a person accused of an offence has been endorsed in the Federated Malay States as provided by this Enactment or the Imperial Act or where this Enactment or the Imperial Act provides for the trial in the Federated Malay States of a person accused of an offence committed outside the Federated Malay States, every Court and Magistrate in the Federated Malay States shall have the same power to issue a warrant to search for any property alleged to be stolen or to be otherwise unlawfully taken or obtained by such person or otherwise to be the subject of such offence as that Court or Magistrate would have if the property had been stolen or otherwise unlawfully taken or obtained, or the offence had been committed, wholly within the jurisdiction of such Court or Magistrate.

Issue of search warrant.

15. Where a prisoner is in legal custody in any of the Federated Malay States either in pursuance of this Enactment or of the Imperial Act or otherwise and such person is required to be removed in custody to another place in any of the said States, such person, if a subject of any of the Rulers of the Federated Malay States, may be removed in any vessel and, if not such a subject, may be removed in

Removal of prisoner by sea from one place to another in Federated Malay States.

any vessel belonging to any of the said Rulers or to His Britannic Majesty or to any of their respective subjects and shall be deemed to continue in legal custody until he reaches the place to which he is required to be removed ; and the provisions of this Enactment and of the Imperial Act with respect to the retaking of a prisoner who has escaped and with respect to the trial and punishment of a person guilty of the offence of escaping or attempting to escape or of abetting such offence shall apply to the case of a prisoner escaping while being lawfully removed as aforesaid in like manner as if he were being removed in pursuance of a warrant issued or endorsed in pursuance of the Imperial Act or of this Enactment.

SUPPLEMENTAL.

Endorsement of warrant.

16. (i) An endorsement of a warrant in the Federated Malay States as provided by this Enactment or the Imperial Act shall be signed by the authority endorsing the same and shall authorize all or any of the persons named in the endorsement and of the persons to whom the warrant was originally directed and also every police officer of the Federated Malay States to execute the warrant within the Federated Malay States by apprehending the person named in it and bringing him before some Magistrate in a specified State or in any of the Federated Malay States, as the case may be, whether the Magistrate named in the endorsement or some other Magistrate ; such endorsement may be in the form in the second schedule.

Process unaffected by death or retirement of officer issuing it.

(ii) For the purposes of this Enactment and of the Imperial Act every warrant, summons, subpœna, and process and every endorsement made in pursuance of this Enactment or of the Imperial Act shall remain in force notwithstanding that the person signing the warrant, process, or such endorsement dies or ceases to hold office.

Conveyance of fugitive or prisoner and witnesses by sea to British dominion.

17. (i) Where a fugitive or prisoner is ordered under the provisions of this Enactment and of the Imperial Act to be returned to any British dominion in pursuance of Part I or Part II of the Imperial Act, such fugitive or prisoner may be sent thither in any ship belonging to any of the Rulers of the Federated Malay States or to His Britannic Majesty or to any of their respective subjects.

Provided that any such fugitive or prisoner being a subject of any of the Rulers of the Federated Malay States may be sent thither in any ship.

(ii) For the purpose aforesaid the authority signing a warrant for the return may order the master of any ship belonging to any of such subjects bound to the British dominion to which the fugitive or prisoner is ordered to be returned to receive and afford a passage and subsistence during the voyage to such fugitive or prisoner and to the person having him in custody and to the witnesses, so that such master be not required to receive more than one fugitive or prisoner for every hundred tons of his ship's registered tonnage or more than one witness for every fifty tons of such tonnage.

Duty of master of ship conveying fugitive or prisoner returned to Federated Malay States.

(iii) The master of every ship which shall bring to any place in the Federated Malay States a fugitive or prisoner to whom a passage thither on such ship has been afforded under the provisions of the Imperial Act or of a law of any British dominion relating to the return of fugitives or prisoners in pursuance of the Imperial Act

shall, on arrival at such place, if such fugitive or prisoner be not in the custody of any person, cause him to be given into the custody of a police officer.

Penalty on master of ship.

(iv) Every master who fails, on payment or tender of a reasonable amount for expenses, to comply with an order made in pursuance of sub-section (ii) or to cause any such fugitive or prisoner as is in sub-section (iii) referred to to be given into custody as required by that sub-section shall be liable on conviction to a fine not exceeding four hundred dollars.

Transit in custody through the Federated Malay States.

18. A fugitive or prisoner who is in the custody of a person acting under a warrant issued or endorsed outside the Federated Malay States in pursuance of the Imperial Act, or of a law of any British dominion relating to the return of fugitives or prisoners in pursuance of the Imperial Act, and who is being returned in pursuance of the Imperial Act to a British dominion may, for the purpose of such return, be held and conveyed in custody in and through the Federated Malay States or any of them during such period as may be reasonably necessary for the said purpose.

Escape of prisoner from custody.

19. (i) If a prisoner escape, by breach of prison or otherwise, out of the custody of a person acting under a warrant issued or endorsed in pursuance of the Imperial Act or of this Enactment or of a law of any British dominion relating to the return of fugitives or prisoners in pursuance of the Imperial Act, he may be taken in the same manner as a person accused of an offence against the laws of the Federated Malay States may be retaken upon an escape from lawful custody.

(ii) A person guilty of the offence of escaping or attempting to escape by breach of prison or otherwise from custody under any warrant issued or endorsed in pursuance of the Imperial Act or of this Enactment or of a law of any British dominion relating to the return of fugitives or prisoners in pursuance of the Imperial Act, or of abetting any such offence, may, if the prisoner is being removed to or from the Federated Malay States or escapes or attempts to escape in the Federated Malay States or if the offender is found in the Federated Malay States, be tried in the Federated Malay States.

Delivery of articles found in possession of the fugitive or accused person.

20. Every article found in the possession, actual or constructive, of a fugitive or other person accused of an offence at the time of his arrest which may be material as evidence in making proof of the offence whereof he is accused may be delivered up with the fugitive or person on his being returned, subject to all rights of third persons with regard thereto.

Offences triable in Federated Malay States and also elsewhere in British dominion.

21. Where a person accused of an offence can by reason of the nature of the offence or the place in which it was committed or otherwise be, under the Imperial Act or this Enactment or otherwise, tried for or in respect of the offence both in the Federated Malay States and also elsewhere in a British dominion, and a warrant for the apprehension of such person is issued in the Federated Malay States, such person may be apprehended in the Federated Malay States and returned in pursuance of the Imperial Act, notwith-

standing that a Court in the Federated Malay States has jurisdiction to try him.

Removal of person triable elsewhere in British dominion.

22. (i) Where a person accused of an offence is in custody in the Federated Malay States, and the offence is one for or in respect of which, by reason of the nature thereof or of the place in which it was committed or otherwise, a person may under the Imperial Act or otherwise be tried elsewhere in a British dominion, and a warrant is issued in accordance with the provisions of the Imperial Act directing the removal of such offender to some other British dominion in which he can be tried, the offender may be returned accordingly.

Sending back of persons removed to Federated Malay States if not prosecuted or acquitted.

(ii) Where in pursuance of the provisions of the Imperial Act a person accused of an offence triable in the Federated Malay States is removed from any British dominion to the Federated Malay States on the ground that, having regard to the place where the witnesses for the prosecution and the defence are to be found and to all the circumstances of the case, such removal is conducive to the interests of justice, such person, if not prosecuted or acquitted in the Federated Malay States, may be sent back free of cost in like manner as if he had been returned to the Federated Malay States in pursuance of Part I of the Imperial Act.

Saving of provisions of Criminal Procedure Code.

23. Nothing in this Enactment contained shall affect any provision of the Criminal Procedure Code in force in any of the Federated Malay States relating to the service or execution in any of the said States of any summons or warrant issued in any other of the said States.

FIRST SCHEDULE.

ENACTMENTS REPEALED.

I.—STATE ENACTMENTS.

State.	No. and year.	Short title.	Extent of repeal.
Perak	14 of 1903	The Criminal Fugitives Surrender Enactment, 1903	The whole
Selangor ..	14 of 1903	Do.	,,
Negri Sembilan	20 of 1903	Do.	,,
Pahang ..	13 of 1903	Do.	,,
Perak ..	29 of 1904	The Straits Settlements Offenders Enactment, 1904	The whole in so far as not already repealed
Selangor ..	26 of 1904	Do.	The whole
Negri Sembilan	27 of 1904	Do.	The whole in so far as not already repealed
Pahang ..	18 of 1904	Do.	The whole

II.—FEDERAL ENACTMENTS.

No. and year.	Short title.	Extent of repeal.
11 of 1912	The Fugitive Offenders Enactment, 1912	The whole

Second Schedule.

FORM OF ENDORSEMENT OF WARRANT.

To A. B., Deputy Commissioner of Police, and [names of other particular officers], and all other Police Officers of the Federated Malay States, and also to all the persons to whom the within warrant is directed. You are hereby authorized to execute this warrant within the Federated Malay States and to apprehend the said..... named herein and to bring him before the Magistrate at.....or some other Magistrate in the $\frac{\text{State of.....}}{\text{Federated Malay States}}$ to be dealt with according to law.

.....

Resident.

Magistrate.

ENACTMENT NO. 16 OF 1915.

An Enactment for the Incorporation of the Titular Roman Catholic Bishop of Malacca.

ARTHUR YOUNG,
President of the Federal Council.

[27th November, 1915.
3rd December, 1915.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Titular Roman Catholic Bishop of Malacca Incorporation Enactment, 1915," and shall come into force on the publication thereof in the *Gazette*.

The Roman Catholic Bishop of Malacca to be a body corporate.

2. The Bishop of Malacca incorporated in the Colony by Ordinance No. XV of 1910 shall be a body corporate and shall by the name of "The Titular Roman Catholic Bishop of Malacca" have perpetual succession and shall and may have and use a corporate seal and the said seal may from time to time break, change, alter, and make anew, as to the said Corporation may seem fit, and the said Corporation is hereby empowered to acquire, purchase, take, hold, and enjoy movable and immovable property of every description and to sell, convey, assign, surrender and yield up, mortgage, demise, re-assign, transfer, or otherwise dispose of any movable or immovable property vested in the said Corporation upon such terms as to the said Corporation may seem fit and may sue and be sued in respect of such property in all Courts of Justice.

Vesting of property.

3. All immovable property within the Federated Malay States heretofore granted, leased, transferred, transmitted to or otherwise vested in "The Bishop of Malacca," whether with or without the name of the Ecclesiastic for the time being holding the office, and whether with or without the addition of the words "Titular Roman Catholic" or "resident in the Straits Settlements," is hereby vested in the said Corporation for the respective estates and interests for which the same is holden.

Use of the corporate seal.

4. All deeds, documents, and other instruments requiring the seal of the said Corporation shall be sealed with the seal of the said Corporation in the presence of the Roman Catholic Bishop of Malacca for the time being or his attorney duly authorized by a power of attorney valid within the Federated Malay States and shall also be signed by the said Bishop for the time being or his attorney so authorized as aforesaid, and such signing shall be and be taken as sufficient evidence that the said seal was duly and properly affixed and that the same is the lawful seal of the said Corporation.

ENACTMENT NO. 17 OF 1915.

An Enactment to provide for control of the Printing and Publication of periodical and other works and for the preservation and registration of Books.

ARTHUR YOUNG,
President of the Federal Council.

[27th November, 1915.
1st January, 1916.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as "The Printing and Books Enactment, 1915," and shall come into force upon the publication thereof in the *Gazette*.

(ii) Upon the coming into force of this Enactment the Enactments specified in the schedule shall be repealed.

Interpretation.

2. In this Enactment, unless the context otherwise requires,

"book" includes every volume, part or division of a volume, pamphlet, newspaper, sheet of music, map, chart or plan separately produced, but does not include price lists, trade circulars, trade advertisements, or other legal or business documents ;

"printed," as applied to books, means produced by printing, lithography, or any other like process, and "printer" has a corresponding meaning.

Printing and publication of newspapers.

3. (i) No printed periodical work whatever containing public news or comments on public news shall be published unless the provisions of this section shall have been complied with in respect thereof.

(ii) The printer and the publisher of every such periodical work shall appear before a Magistrate of the State within which such work shall be published and shall make and subscribe in duplicate the following declaration :

> "I, A. B., declare that I am the printer [*or* publisher *or* printer and publisher] of the periodical work entitled .....and printed [*or* published *or* printed and published] at....."

The last blank in this form of declaration shall be filled up with a true and precise account of the premises where the printing or publication is conducted.

(iii) As often as the place of printing or publication is changed a new declaration shall be made.

(iv) As often as the printer or the publisher who shall have made such declaration as aforesaid shall leave the Federated Malay States

a new declaration shall be made by a printer or publisher resident within the Federated Malay States.

Penalty.

4. Any person who shall

(*a*) print or publish any such periodical work as is referred to in Section 3 without complying with the requirements of the said section, or

(*b*) print or publish or cause to be printed or published any such periodical work knowing that the requirements of the said section have not been complied with in respect of such work,

shall be liable to a fine not exceeding two thousand five hundred dollars and to simple imprisonment for a term not exceeding two years.

Declarations to be deposited in Magistrate's Court and Supreme Court.

5. (i) Each of the two originals of every declaration made and subscribed in accordance with Section 3 shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made, and one of the said originals shall be deposited among the records of the office of the Magistrate and the other original shall be deposited among the records of the Supreme Court.

(ii) The officer in charge of each original shall allow any person to inspect that original on payment of a fee of fifty cents and shall give to any person applying a copy of the said declaration, attested by the seal of the Court which has the custody of the original, on payment of a fee of one dollar.

Office copy of declaration to be evidence.

6. Subject to the provisions of Section 7, in any legal proceeding whatever, whether civil or criminal, a copy of such a declaration as is referred to in Section 3 attested by the seal of some Court empowered by this Enactment to have the custody of such declarations shall (unless the contrary be proved) be sufficient evidence, as against the person whose name shall be subscribed to such declaration, that the said person was printer or publisher or printer and publisher (according as the words of the said declaration may be) of every portion of every periodical work whereof the title shall correspond with the title of the periodical work mentioned in the declaration.

Procedure when persons who have subscribed declarations cease to be printers or publishers.

7. (i) Any person who may have subscribed such declaration as is referred to in Section 3 and who may subsequently cease to be the printer or publisher of the periodical work mentioned in such declaration may appear before any Magistrate in the Federated Malay States and make and subscribe in duplicate the following declaration :

> "I, A. B., declare that I have ceased to be the printer [*or* publisher *or* printer and publisher] of the periodical work entitled....."

(ii) Each of the two originals of the latter declaration shall be authenticated by the signature and seal of the Magistrate before whom the same shall have been made, and one original thereof shall be filed along with each original of the former declaration.

(iii) The officer in charge of each original of the latter declaration shall allow any person applying to inspect that original on payment of a fee of fifty cents and shall give to any person applying a copy of the said latter declaration, attested by the seal of the Court which has the custody of the original, on payment of a fee of one dollar.

(iv) In any legal proceeding in which a copy, attested as aforesaid, of the former declaration shall have been put in evidence it shall be lawful to put in evidence a copy, attested as aforesaid, of the latter declaration ; and the former declaration shall not be taken to be evidence that the declarant was at any period subsequent to the date of the latter declaration printer or publisher of the periodical work therein mentioned.

Name and address of printer and publisher to appear on books and papers.

8. (i) Every book or paper printed or published within the Federated Malay States shall bear upon the front page, if the same be printed on one side only or upon the first or last leaf if the book or paper shall consist of more than one leaf, in legible characters in the English language the name and address of the printer and of the publisher and the place of printing and of publication.

(ii) Any person who shall print or publish any book or paper otherwise than in conformity with the provisions of this section shall be liable to a fine not exceeding two thousand five hundred dollars and to simple imprisonment for a term not exceeding two years.

No printing press to be kept unless declaration made.

9. (i) No person shall keep in his possession any press for the printing of books or papers who shall not have made and subscribed before a Magistrate of the State wherein such press may be the following declaration :

"I, A. B., declare that I have a press for printing at....."

The last blank in this form of declaration shall be filled up with a true and precise description of the premises where such press may be.

(ii) Any person who shall keep in his possession any such press without making such declaration as is prescribed by sub-section (i) shall be liable to a fine not exceeding two thousand five hundred dollars and to simple imprisonment for a term not exceeding two years.

Penalty for untrue declaration.

10. Any person who shall in making any declaration under the provisions of this Enactment knowingly affirm an untruth shall be liable to a fine not exceeding two thousand five hundred dollars and to simple imprisonment for a term not exceeding two years.

Two copies of books to be delivered to Government.

11. (i) Two printed copies of the whole of every book which is printed or published in the Federated Malay States after the commencement of this Enactment together with all maps, prints, or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same are produced, and also of any second or subsequent edition which is so produced with any additions or alterations, whether the same be in letterpress or in the maps, prints, or other engravings belonging thereto and whether the first edition of such book be produced before or after the commencement of this Enactment, shall within one calendar month after the day on which any such book is first delivered out of the

press, and notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered free of charge by the printer or publisher bound, sewed or stitched together and upon the best paper on which the same is printed at such place and to such officer as the Chief Secretary to Government, by notification in the *Gazette*, from time to time directs.

(ii) The publisher or other person employing the printer shall within a reasonable time before the expiration of the said month supply the printer with all maps, prints, and engravings, finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements of this section.

(iii) The officer to whom any copies of books are delivered under the provisions of this section shall give a receipt in writing for the same.

Disposal of the two copies.

12. One of such copies shall be transmitted to the Trustees of the British Museum in London and the other copy shall be deposited in the Government Museum at Kuala Lumpur in the State of Selangor.

Registration of memoranda of books.

13. There shall be kept at the said Government Museum at Kuala Lumpur a book, to be called "A Catalogue of Books printed or published in the Federated Malay States," wherein shall be registered, as soon as may be after the delivery of any book under the provisions of this Enactment, a memorandum of such book, which memorandum shall (so far as may be practicable) contain the following particulars—that is to say :

(1) The title of the book and the contents of the title page, with a translation into English of such title and contents when the same are not in the English language ;

(2) The language in which the book is written ;

(3) The name of the author, translator, or editor of the book ;

(4) The subject ;

(5) The place of printing and the place of publication ;

(6) The name or firm of the printer and the name or firm of the publisher ;

(7) The date of issue from the press or of the publication ;

(8) The number of sheets, leaves, or pages ;

(9) The size ;

(10) The number of the edition ;

(11) The number of copies of which the edition consists ; and

(12) The price at which the book is sold to the public.

Publication of memoranda registered.

14. The memoranda registered during each quarter in the said catalogue shall be published in the *Gazette* as soon as may be after the end of each quarter.

Penalty for non-delivery of books by printer or publisher.

15. Every printer or publisher who neglects to deliver two copies of any such book as is referred to in Section 11, or of any second or subsequent edition of any such book, to the officer and in the manner hereinbefore prescribed shall be liable to a fine not exceeding twenty-five dollars.

16. Every publisher or other person employing any such printer who neglects to supply him in manner aforesaid with any map, print, or engraving, finished and coloured as aforesaid, which may be necessary to enable such printer to comply with the provisions of this Enactment shall be liable to a fine not exceeding twenty-five dollars. Penalty for non-supply of maps, etc., by publisher to printer.

17. The Chief Secretary to Government may from time to time make rules for carrying out the objects of this Enactment. Rules.

18. (i) The Chief Secretary to Government may by notification in the *Gazette* exclude any class of books or papers from the operation of the whole or any part or parts of this Enactment. Exclusion of books from operation of this Enactment.

(ii) This Enactment does not apply to books or papers printed by the Government Printing Department for or on behalf of the Chief Secretary to Government or the Government of the Federated Malay States or of any of them.

SCHEDULE.

ENACTMENTS REPEALED.

State.	No. and year.	Short title.
Perak ..	Order in Council No. 17 of 1895	Book Registration Order in Council, 1895
Selangor..	Enactment No. 6 of 1898	Book Registration Enactment, 1898

ENACTMENT NO. 20 OF 1915.

An Enactment to provide for the receipt in the Federated Malay States of certain notices of marriage under the Foreign Marriage Act, 1892, of the United Kingdom.

ARTHUR YOUNG,
President of the Federal Council.

[27th November, 1915.
10th November, 1916.]

WHEREAS by regulations contained in an Order made by His Britannic Majesty in Council under the provisions of "The Foreign Marriage Act, 1892," of the United Kingdom and entitled "The Foreign Marriages Order in Council, 1913," provision is made for the procedure to be followed in cases where a marriage is intended to be solemnized under the said Act but the requirements of Section 2 of the said Act in respect of the residence of both of the parties have not been complied with :

AND WHEREAS by Article 13 of the said Order in Council it is provided that if the place in a foreign country at which the non-resident party has dwelt is not within the district of a marriage officer, the notice to be given by that party may be given to any person authorized by the Secretary of State to receive such notices ; and such person may receive, enter, and post up such notice and give a certificate that the notice has been so given and posted up and that he is unaware of any impediment, as if he were a marriage officer :

AND WHEREAS the Federated Malay States are not within the district of a marriage officer, within the meaning of the said Article 13, and it is expedient to provide for the appointment of a person to receive in the Federated Malay States such notices as are referred to in the said Article 13 and to deal with them in the manner thereby authorized :

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Foreign Marriage Notice Enactment, 1915," and shall come into force on the publication thereof in the *Gazette*.

Appointment of an officer to receive notices of marriage, and his duties.

2. (i) Subject to the provisions of Section 3, the Chief Secretary to Government may from time to time by notification in the *Gazette* appoint any public officer serving in the Federated Malay States to be the proper person to receive any such notice as is by Article 13 of "The Foreign Marriages Order in Council, 1913," authorized to be given by a party to a marriage intended to be solemnized under "The Foreign Marriage Act, 1892," in a place outside the Federated

Malay States when the place at which such party has dwelt is situate in the Federated Malay States.

(ii) The notice to be given shall be signed by the party intending marriage who gives the notice and shall state the name, surname, profession, condition, and residence of each of the parties and whether each of the parties is or is not a minor.

(iii) An officer appointed under sub-section (i) shall on receiving any such notice as aforesaid file the same and keep it with the archives of his office and shall also, on payment of the prescribed fee, forthwith enter in a book of notices to be kept by him for the purpose, and post up in some conspicuous place in his office, a true copy of such notice and shall keep the same so posted up during fourteen consecutive days before the marriage is solemnized.

(iv) The said book and copy shall be open at all reasonable times, without fee, to the inspection of any person.

(v) An officer appointed under sub-section (i) to whom such notice as aforesaid has been given shall on payment of the prescribed fee give a certificate that the notice has been so given and posted up and that he is unaware of any impediment which should obstruct the solemnization of the marriage.

Sanction of Secretary of State.

3. No officer shall be appointed under Section 2 without the sanction of one of His Britannic Majesty's Principal Secretaries of State, and such sanction so given to any appointment shall be notified in the *Gazette* when the appointment is published.

Fees.

4. The Chief Secretary to Government may by notification in the *Gazette* prescribe the fees to be taken under this Enactment and the mode of disposal thereof.

ENACTMENT NO. 21 OF 1915.

An Enactment to provide for the registration of certain residents in the Federated Malay States for the purpose of military training and for the establishment of a Reserve Force to the Volunteer Force and of a Civil Guard.

ARTHUR YOUNG,
President of the Federal Council.

[2nd December, 1915.
6th December, 1915.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. (i) This Enactment may be cited as "The Reserve Force and Civil Guard Enactment, 1915," and shall come into force on the publication thereof in the *Gazette*.

Interpretation.

(ii) For the purposes of this Enactment persons employed under Section 17 of the Police Force Enactments, 1905, shall not be deemed to be members of the Police Force of the Federated Malay States.

REGISTRATION.

Registration of certain British subjects.

2. (i) Every male British subject of pure European descent who is eighteen and less than fifty-five years of age resident in the Federated Malay States on the commencement of this Enactment shall within fourteen days thereafter, and every such person arriving in the Federated Malay States after the commencement of this Enactment shall within two months after arrival, make a return signed by him to the Chief Police Officer of the State in which he is residing of his name, place of birth, age, residence, occupation, military service, if any, and date of arrival in the Federated Malay States, if such arrival was after the commencement of this Enactment, according to the form in Schedule A.

(ii) Every such person who shall change his place of residence from one State to another State shall within fourteen days thereafter notify such change in writing to the Chief Police Officer of each such State.

(iii) Every such person who within any State shall change his place of residence from or to any area in respect of which a notification under Section 3 or Section 5 is in force shall within fourteen days thereafter notify such change in writing to the Chief Police Officer of such State.

(iv) Any person who fails to comply with the requirements of this section shall be liable to a fine not exceeding twenty-five dollars for every day during which the default continues.

(v) This section shall not apply to members of His Britannic Majesty's Navy or Army or of the Volunteer or Police Force of the Federated Malay States or of their Reserves, and sub-section (i) shall not apply to members of the existing Civil Guards who are forty years of age or over.

RESERVE FORCE.

Liability of certain British subjects who are eighteen and less than forty years of age to serve in the Reserve Force or to undergo military training.

3. (i) Subject to the provisions hereinafter mentioned every male British subject of pure European descent who is eighteen and less than forty years of age in any State or any area thereof shall be liable, whenever it is notified in the *Gazette* that the Resident of such State intends to establish a Reserve Force to the Volunteer Force and to call out men to undergo military training in such State or area, to serve as a member of such Reserve Force or to undergo such military training as may be prescribed by regulations made under this Enactment.

(ii) As soon as the notification appears in the *Gazette* and at any time thereafter while such notification is in force the Chief Police Officer of the State to which the notification relates shall forward to the Adjutant to the Volunteer Force or to any other officer appointed by the Resident of such State a list containing the names of those persons resident in such State or in the area thereof to which the notification relates, as the case may be, who appear from the returns made under Section 2 to be under the age of forty years.

(iii) The Adjutant to the Volunteer Force or such other officer shall summon before him in writing in the form in Schedule B such number as may from time to time be fixed by the Resident of such State of the persons whose names are on such list.

(iv) Any person summoned in any State shall be exempt from the liability imposed by sub-section (i) who

(*a*) is a member of His Britannic Majesty's Navy or Army or of the Volunteer or Police Force of the Federated Malay States or of their Reserves (other than the said Reserve Force) ;

(*b*) by reason of sickness or other infirmity appears to the Committee appointed for such State under this Enactment to be incapable of performing the duties of a member of the Reserve Force or of undergoing military training ;

(*c*) is exempted by such Committee ; or

(*d*) is exempted by the Resident of such State.

(v) Every person summoned who is not exempt under sub-section (iv) shall in the presence of the Adjutant or such other officer elect to serve as a member of such Reserve Force or to undergo the prescribed military training.

(vi) Every person summoned who elects to serve as a member of such Reserve Force shall take the oath or make the declaration set forth in Schedule C to be administered by the Adjutant or such other officer or by any officer who has taken such oath or made such declaration.

Application of "The Volunteer Enactment, 1913," to Reserve Force.

4. The provisions of "The Volunteer Enactment, 1913," except Sections 3, 5, 6, 7, 8, and 26 and of the regulations thereunder shall

apply to members of the Reserve Force in the same way as if they were members of the Volunteer Force.

CIVIL GUARD.

Liability of certain British subjects who are eighteen and less than fifty-five years of age to serve in the Civil Guard.

5. (i) Every male British subject of pure European descent who being eighteen and less than forty years of age is not for the time being subject to the liability imposed by Section 3 (i) and every such subject who is forty and less than fifty-five years of age in any State or any area thereof shall be liable, whenever it is notified in the *Gazette* that the Resident of such State intends to establish a Civil Guard in such State or area or to apply this Enactment to an existing Civil Guard in such State or area, to serve as a member of such Civil Guard.

(ii) As soon as the notification appears in the *Gazette* and at any time thereafter while such notification is in force, the Chief Police Officer of the State to which the notification relates shall summon before him in writing in the form in Schedule B such number as may from time to time be fixed by the Resident of such State of the persons liable to serve as members of the Civil Guard in such State or area.

(iii) Any person summoned in any State shall be exempt from such service who

(*a*) is a member of His Britannic Majesty's Navy or Army or of the Volunteer or Police Force of the Federated Malay States or of their Reserves ;

(*b*) by reason of sickness or other infirmity appears to the Committee appointed for such State under this Enactment to be incapable of performing the duties of a member of a Civil Guard ;

(*c*) is exempted by such Committee ; or

(*d*) is exempted by the Resident of such State.

(iv) Every person summoned who is not exempt under subsection (iii) shall take the oath or make the declaration set forth in Schedule C to be administered by the Chief Police Officer.

Powers of Civil Guard.

6. Every member of the Civil Guard shall have the same powers for the preservation of the peace, the prevention of offences, the apprehension of offenders and for all other purposes and shall enjoy the same privileges, protection, and immunities as the members of the Police Force engaged under the Police Force Enactments, 1905, except as to pay, pension, or other reward.

Control of Civil Guard.

7. The Civil Guard in each State, or area of a State, shall be under the control of the Chief Police Officer of such State and of such other officers as the Resident of such State may appoint in that behalf.

Appointment of instructors.

8. The Chief Police Officer in each State may from time to time appoint suitable persons to be instructors of the Civil Guard, who shall give instructions in musketry and in squad drill to the members of the Civil Guard.

Supply of arms, etc., by Government.

9. Such arms, ammunition, appointments, and clothing as the Chief Secretary to Government directs shall be supplied by the Government for the use of each member of the Civil Guard.

MISCELLANEOUS.

Appointment of Committee.

10. In each State a Committee consisting of the Officer for the time being commanding the troops in the Colony or an officer deputed by him and of the officer for the time being acting as Commissioner of Police or an officer deputed by him and of not more than five and not less than three persons to be appointed by the Resident of the State shall discharge the duties imposed on such Committee by this Enactment and by any regulations made thereunder.

Regulations.

11. (i) The Chief Secretary to Government may make regulations

(*a*) prescribing the duties to be performed by Committees appointed under this Enactment;

(*b*) with respect to the training, discipline, duties, leave, and discharge of members of a Reserve Force and Civil Guard and of those persons who have elected to undergo the prescribed military training;

(*c*) with respect to the supply of arms, ammunition, appointments, and clothing to such members and persons;

(*d*) generally for carrying this Enactment into effect.

(ii) A copy of such regulations shall be furnished to every member of a Reserve Force and Civil Guard and to every person who has elected to undergo the prescribed military training.

Penalty for failure to obey summons.

12. Any person summoned under Section 3 (iii) or Section 5 (ii) who without reasonable excuse omits to appear at the place specified in the summons shall be liable to a fine not exceeding twenty-five dollars.

Penalty for refusal to elect or to take oath or make declaration.

13. Any person summoned who is not exempt under Section 3 (iv) or Section 5 (iii) and who refuses to elect as required by Section 3 (v) or to take the oath or make the declaration as a member of such Reserve Force or Civil Guard shall be liable to imprisonment of either description for a term not exceeding two months or to a fine not exceeding one hundred dollars or to both such imprisonment and fine.

Penalty for disobeying orders.

14. (i) Any member of a Reserve Force or Civil Guard called upon to serve, who without reasonable excuse neglects or refuses to serve or to obey any lawful orders, regulations, or directions, shall be liable to imprisonment of either description for a term not exceeding two months or to fine not exceeding one hundred dollars or to both such imprisonment and fine.

(ii) Any person who, having elected to undergo military training, neglects or refuses without reasonable excuse to obey any lawful orders, regulations, or directions shall be liable to the punishment prescribed in sub-section (i).

Penalty for wrongful detention, sale, etc., of public property.

15. (i) All arms, ammunition, appointments, and clothing supplied at the public expense and issued to any member of a Reserve Force or Civil Guard or to anyone undergoing military training in any State shall be and remain the property of the Government and shall be produced, exhibited, and delivered to any person authorized by the Resident of such State to inspect or receive the same.

(ii) if any person wilfully makes away with, sells, pawns, wrongfully destroys or damages, or negligently loses anything issued to

him as a member of a Reserve Force or Civil Guard or as a person who has elected to undergo military training, or refuses or neglects when lawfully required to produce, exhibit, or deliver on demand any thing which he is liable under this Enactment to produce, exhibit, or deliver, the value thereof shall be recoverable from him before the Court of a Magistrate of the First Class, exercising criminal jurisdiction, as if it were a fine, by the Adjutant of the Volunteer Force or the Chief Police Officer of the State or area, and he shall also be liable to a fine not exceeding fifty dollars.

Penalty for purchase, etc., of public property.

16. Any person who

(*a*) knowingly buys or takes in exchange or in pawn from any member of a Reserve Force or Civil Guard or person acting on his behalf or from any person who has elected to undergo military training, or

(*b*) solicits or entices any such member or person to sell or pawn, or

(*c*) knowingly assists or acts for any such member or person in selling or pawning, or

(*d*) has in his possession or keeping, without satisfactorily accounting therefor,

any arms, ammunition, appointments, clothing, or other articles, being public property, shall be liable to a fine not exceeding fifty dollars for every such offence.

Offers of service.

17. Nothing in this Enactment shall be taken to prohibit the Resident of any State from accepting the services of any British subject or other person within the prescribed ages who offers to serve as a member of a Reserve Force or Civil Guard.

Transfer to Volunteers.

18. Any person who for the time being is a member of a Reserve Force or Civil Guard or is undergoing military training under this Enactment may join the Volunteer Force in any State provided he obtains the written sanction of the Commandant thereof, and thereafter upon taking the oath and signing the form of enrolment provided in "The Volunteer Enactment, 1913," he shall so long as he continues to be a member of such Volunteer Force cease to be subject to this Enactment.

SCHEDULE A.

Name.	Place of birth.	Age.	Residence.	Occupation.	Military service (if any).	Date of arrival in F.M.S., if subsequent to commencement of Enactment.

Dated this.....day of.....19..

.....

(*Signature.*)

SCHEDULE B.

To.....

Whereas the Resident of the State of.....has notified in the *Gazette* that it is his intention to establish a Reserve Force to the Volunteer Force and to call out men to undergo military training (*or* to establish a Civil Guard *or* to apply "The Reserve Force and Civil Guard Enactment, 1915," to the existing Civil Guard) in the said State (*or* in the area of.....)

This is therefore to require you to attend at.....on.....Herein fail not.

Given at.....this.....day of....., 19..

.....

Adjutant of Volunteer Force or other Officer
or
Chief Police Officer.

SCHEDULE C.

1. Oath to be taken by members of the Reserve Force and Civil Guard.

I (*insert the name, address, and occupation of the member*) sincerely promise and swear that I will faithfully serve in the Reserve Force *or* Civil Guard under "The Reserve Force and Civil Guard Enactment, 1915."

So help me God.

Dated the.....day of....., 19... .....

Before me..... (*Signature.*)

Adjutant of Volunteer Force or other Officer
or
Chief Police Officer.

2. Declaration to be made by members of the Reserve Force and Civil Guard.

I (*insert the name, address, and occupation of the member*) do solemnly, sincerely, and truly declare that I will faithfully serve in the Reserve Force *or* Civil Guard under "The Reserve Force and Civil Guard Enactment, 1915."

Dated the.....day of....., 19..

.....

Before me..... (*Signature.*)

Adjutant of Volunteer Force or other Officer
or
Chief Police Officer.

ENACTMENT NO. 27 OF 1915.

As amended by Fed. E. 15 of 1920.

An Enactment to incorporate a Board to manage loans by the Government *for agricultural purposes* and to provide for certain terms of such loans.

ARTHUR YOUNG,
President of the Federal Council.

[2nd December, 1915.
4th December, 1915.]

WHEREAS the Government has set apart the sum of four million dollars of public money for the making of loans to Planters on the security of lands situate in the Federated Malay States: AND WHEREAS a portion of the said sum has been utilized in the making of such loans as aforesaid some of which have been repaid in whole or in part and it is expedient to vest in a Board to be constituted under this Enactment the rights of the Government in respect of the control and management of the loans so made and of the sums which have been and shall be repaid on account thereof and of the balance of the said sum of four million dollars remaining available for the making of such loans as aforesaid and of all sums accrued or to accrue due by way of interest on loans made or to be made from the said sum, in so far as such sums have not been already credited to the public revenue:

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows:—

Short title and commencement.

1. This Enactment may be cited as "The Planters Loans Fund Enactment, 1915," and shall come into force on such day as shall be appointed by the Chief Secretary to Government (hereinafter referred to as the "Chief Secretary") by notification in the *Gazette*.

Planters' Loans Fund.

2. A fund shall be established to be called the "Planters' Loans Fund" (hereinafter referred to as "the Fund") the capital whereof shall be the sum of four million dollars hereinbefore referred to. *The capital of the Fund may at any time be increased by resolution of the Federal Council.*

E. 15 of 1920.

Control of Fund.

3. The control and management of the Fund shall, subject to the provisions of this Enactment, be vested on behalf of the Government in a Board consisting of not less than three persons or more than seven persons.

The Planters' Loans Board; incorporation; membership; sale.

4. (i) The Board shall be a body corporate and shall by the name of "The Planters' Loans Board" have continuous succession and

shall and may have and use a common seal and may acquire, hold, dispose of, and deal with movable and immovable property and by the said name may sue and be sued in all Courts and in all manner of suits and proceedings and may do all other matters and things incidental or appertaining to a body corporate and not inconsistent with the provisions of this Enactment.

(ii) The members of the Board shall be such persons as may be nominated in that behalf from time to time by the Chief Secretary; of the members to be so nominated not more than half shall be officers employed in the public service. The Chairman of the Board shall be a member nominated as Chairman by the Chief Secretary. All nominations under this section shall be published in the *Gazette*.

(iii) Members of the Board nominated by the Chief Secretary under this section shall, unless expressly nominated for a shorter term, ordinarily retain their membership thereof for a period of five years but shall be at liberty to resign their membership at any time. Any member who shall leave the Federated Malay States with the intention of being absent therefrom for a period exceeding two months or who shall be absent from the said States for a period exceeding two months shall be deemed to have resigned his membership. Any member may at any time be removed from the Board or from the chairmanship thereof by the Chief Secretary by notification in the *Gazette*.

(iv) The common seal of the Board shall not be used except by the authority of the Board. Every document requiring the seal of the Board shall be sealed with its common seal in the presence of any one member of the Board and the Secretary to the Board, each of whom shall also sign such document, and such signing shall be sufficient evidence that the said seal was duly affixed by authority of the Board and that the same is the lawful seal of the Board.

(v) Any question or resolution arising or put forward at any meeting of the Board shall be decided by a majority of votes, and in case of an equality of votes the Chairman shall have a second or casting vote; any question or resolution so decided as aforesaid shall be deemed to be a decision or resolution of the Board.

Payment over of capital of Fund; disposal of interest.

5. (i) The capital of the Fund shall be paid over by the Treasurer, Federated Malay States, (hereinafter referred to as "the Treasurer,") to the Board in such instalments as may from time to time be necessary for the purposes of this Enactment.

(ii) The Board shall pay to the Treasurer half yearly during the months of January and July in each year such part, not being more than three-quarters, of the interest payable to and received by the Board in respect of all capital of the Fund as may be fixed from time to time by the Chief Secretary and notified to the Board.

(iii) The difference between the amount of interest payable to and received by the Board in pursuance of the provisions of this Enactment and the interest payable by the Board to the Treasurer

under this section shall be allocated at the discretion of the Board to

(*a*) payment of necessary expenses incidental to the exercise and performance of the powers and duties of the Board under this Enactment, and

(*b*) the constitution of a Reserve Fund.

(iv) The moneys constituting the Reserve Fund may be utilized for reimbursing to the Fund the amount of any losses arising from principal or interest due to the Board on account of any loan which may be unpaid and irrecoverable, for investment in any securities approved by the High Commissioner and for any other purpose which the Chief Secretary may specially authorize in writing.

Transfer to the Board of the control of certain existing loans.

6. The loans made by the Government which are secured by the charges on land specified in the schedule hereto and which are hereinafter called "the scheduled loans" shall on the commencement of this Enactment pass under the control and management of the Board, and all powers and rights of the Government of the Federated Malay States or of any of them or of the Chief Secretary or of the Resident of any State in respect of the said loans and in respect of the charges whereby the same are secured, whether such powers or rights be expressed in the charges or implied by virtue of "The Government Loans Security Enactment, 1910," or otherwise, shall be transferred to and vest in and may be exercised by the Board and such loans and charges shall be controlled and managed by the Board and be subject to the provisions of this Enactment, and more particularly the undertakings set out in paragraphs (*d*) and (*e*) of Section 11 of this Enactment shall, in lieu of the undertakings set out in paragraphs (*d*) and (*e*) of Section 3 of "The Government Loans Security Enactment, 1910," be implied in the charges whereby the scheduled loans are secured and Sections 12 (ii), 18 (ii), and 23 of this Enactment shall in lieu of Sections 4 (ii), 9 (ii), and 10, respectively, of "The Government Loans Security Enactment, 1910," apply to the scheduled loans and to the lands charged as security therefor; provided that, except as aforesaid, nothing in this Enactment contained shall in respect of the scheduled loans or the charges whereby the same are secured impose on any person or create in respect of any property any obligation or liability greater than would have attached to such person or property if this Enactment had not been passed.

Power of Board to make loans. E. 15 of 1920.

7. Subject to the provisions of this Enactment, the Board may in its discretion make loans from the Fund *for agricultural purposes to Co-operative Societies and to Planters.*

Restrictions on power to make loans.

8. (i) No loan the amount whereof exceeds *fifty* thousand dollars or the making whereof will cause the aggregate debt of the borrower to the Board to exceed *fifty* thousand dollars shall be made from the Fund except with the written approval of the Chief Secretary.

(ii) No loan shall be made from the Fund except for the benefit of land situated in the Federated Malay States.

(iii) If and so often as it shall have been resolved by the Federal Council that after a date to be specified in the resolution no loan shall be made from the Fund in respect of land which

(*a*) has after a date to be specified in the resolution been cultivated, or

(*b*) is proposed to be cultivated

with products to be specified in the resolution, then so long as such resolution remains unrescinded no loan shall be made from the Fund which would contravene the terms thereof.

(iv) *Except to Co-operative Societies* no loan shall be made from the Fund except upon the security of a charge of land situated in the Federated Malay States expressed to be executed in pursuance of the provisions of this Enactment, nor if the land so charged or to be charged by way of security is subject to any charge, mortgage, or other encumbrance not being a charge in favour of the Government of the Federated Malay States or of any of them, the Chief Secretary, the Resident of any State, or the Board.

Loans on special conditions. E. 15 of 1920.

8A. *Notwithstanding anything in this Enactment contained the Chief Secretary may by writing under his hand direct the Board to make loans to any persons to whom Land Grants under the War Service Land Grant Scheme have been made and of such amount and upon such conditions as to interest, security, and repayment as he may deem fit and may in like manner direct that any such loans shall be exempt from all or any of the provisions of this Enactment or shall be subject to any special conditions.*

Collateral security.

9. A loan made or to be made from the Fund may, in addition to being secured by a charge on land situated in the Federated Malay States, be secured by a charge or mortgage, by way of collateral or additional security, on any property wheresoever situated.

Interest. E. 15 of 1920.

10. (i) *On every loan interest shall be charged at such rate as may be fixed by the Board, provided that the rate of interest shall be within such limits as may be prescribed by order of the Chief Secretary in force at the time of the making of the loan.*

(ii) *Except in the case of loans to Co-operative Societies such interest shall be secured to the Board in the charge referred to in sub-section* (iv) *of Section* 8.

Undertakings implied in a charge executed in pursuance of this Enactment.

11. In every charge of land expressed to be executed in pursuance of the provisions of this Enactment and duly registered under the provisions of the law for the time being in force relating to the registration of charges on such land there shall be implied, in the absence of an express stipulation in such charge to the contrary, the following undertakings on the part of the chargor :

(*a*) that the chargor will properly and judiciously use the moneys secured by the charge for the purposes for which the same are by the terms of the charge expressed to be advanced to him and will not use such moneys for any other purpose whatsoever ;

(*b*) that the chargor will pay at the times and in the manner required by the terms of the charge all amounts accruing due thereunder, whether by way of interest or otherwise ;

(*c*) that the chargor will duly comply with all conditions and obligations attaching to the title for the land charged, whether in respect of cultivation, building, payment of rent or otherwise, and will keep all buildings on the said land in good repair ;

(*d*) that the chargor will not transfer to any other person any portion of his interest in the land charged without the written consent of the Board under its common seal ;

(*e*) that the chargor will furnish month by month to the Board proper accounts of revenue from and expenditure on the land charged and such other information as the Board may from time to time require ;

(*f*) that the chargor will insure and keep insured in the name of and to the satisfaction of the Board all buildings, machinery, and plant in or upon the land charged, except such as may be exempted by agreement, and all produce of the land charged from the harvesting of such produce until the sale thereof and that proper evidence of such insurance shall be produced to the Board from time to time as required ;

(*g*) that no dividend or bonus shall be paid to any person out of the profits arising from the land charged until all moneys secured by the charge shall have been paid to the Board in full ;

(*h*) that all profits arising from the land charged which are not required for the due cultivation and maintenance thereof shall be devoted to the payment to the Board of the moneys secured by the charge ;

(*i*) that the chargor will pay to the Board on demand all expenses which may be from time to time incurred by the Board in or about the employment of a person or persons to visit, inspect, and report on the land charged ;

(*j*) that the chargor will pay to the Board on demand all costs, charges, and expenses whatsoever which may be paid or incurred by the Board in any exercise of its rights or powers occasioned by default of the chargor in the observance or performance of any undertaking or condition expressed or by this Enactment or otherwise implied in the charge ;

(*k*) that no part of the land charged which is not cultivated at the date of the execution of the charge shall without the written consent of the Board under its common seal be cultivated until all moneys secured by the charge shall have been paid to the Board in full.

12. (i) Any such charge as is referred to in Section 11 may be for the securing of an amount paid in full by the Board to the borrower on the execution of the charge or payable by instalments, and may provide for repayment by the borrower of the amount of the loan by instalments or otherwise. Payment and repayment by instalments.

(ii) When the amount of any loan secured by such charge as aforesaid is payable by the Board to the borrower by instalments, the second or any subsequent instalment accruing due from the Board to the borrower may be withheld until the borrower shall have furnished to the Board monthly accounts of revenue and expenditure and such other information as may be required and shall have satisfied the Board that the moneys already advanced have been properly and judiciously expended.

(iii) When the amount of any loan secured by such charge as aforesaid is payable by the Board to the borrower by instalments falling due upon dates fixed by the mutual consent of the parties or specified in the charge, then, if the payment of any such instalment shall owing to any cause within the control of the borrower be delayed beyond the date upon which the same falls due, there shall be payable to the Board by way of interest on such instalment, if the same be eventually paid to the borrower, the same amount as would have been payable by way of interest thereon if the said instalment had been paid to the borrower on the date upon which the same fell due ; provided that this sub-section shall not apply if the borrower shall have given notice in writing to the Board not less than thirty days before the date on which such instalment falls due that he does not require payment thereof on such date.

13. For the purpose of such charges as are referred to in Section 11 the forms prescribed by the law applicable to the registration thereof may be modified so far as may be necessary to adapt them to the provisions of this Enactment and any special condition or undertaking may be inserted therein. Form of charge.

14. All undertakings expressed or implied in any charge such as is referred to in Section 6 or in Section 11 shall bind the representatives and assigns of the chargor until the charge is satisfied. Representatives and assigns.

15. If and so often as any interest due under a charge such as is referred to in Section 11 shall be unpaid for one calendar month after the day appointed by such charge for payment thereof, such interest shall, unless the Board at any time otherwise decide, be added to the principal moneys secured by such charge as from the expiration of such calendar month and shall thenceforth bear interest at the rate mentioned in such charge which shall be paid by the chargor, his representatives and assigns to the Board on the days appointed as aforesaid for the payment of interest, and such capitalized interest and the interest thereon shall be deemed to be moneys secured by such charge ; provided that on any day appointed as aforesaid for the payment of interest the chargor, his representatives and assigns may pay to the Board, in addition to the interest then due upon the principal moneys for the time being owing on the charge, so much of Compound interest.

the said principal moneys as shall for the time being represent capitalized interest.

Special provisions relating to proceedings in case of default.

16. Proceedings for the sale of any land in pursuance of any charge such as is referred to in Section 6 or in Section 11 shall be in accordance with the requirements of the law relating to charges on such land, subject to the following special provisions :

(*a*) Default on the part of the chargor or any person claiming under him in complying with any undertaking expressed or implied in the charge shall be sufficient ground for the making of an order for the sale of the charged land ; provided that not less than fourteen days' notice in writing shall have been given to the chargor or person claiming under him to make good any such default which is capable of being made good and the same shall not have been made good ;

(*b*) An order for the sale of the charged land may direct that the sale take place at any time not less than fourteen days from the date of the order.

Recovery by civil suit.

17. The amount of any moneys secured by a charge such as is referred to in Section 6 or in Section 11 which cannot be recovered by sale of the land charged shall be recoverable from the chargor or his representatives by civil suit.

Procedure on fall in value of land.

18. (i) If at any time the market value of any land which is subject to a charge such as is referred to in Section 6 or in Section 11 shall not exceed the amount of the moneys advanced under, secured by, and still outstanding under such charge, the Board may, in the absence of an express stipulation in the charge to the contrary, by notice in writing require payment of the amount secured by the charge within thirty days from the service of the notice and thereafter, in default of payment, apply for and obtain an order of sale of the land charged in same way as if the chargor had made default in complying with an undertaking expressed or implied in the charge.

(ii) An affidavit of such person or persons as shall have been appointed by the Board to report stating what is, in his or their opinion, the market value of the land charged shall, for the purposes of sub-section (i), be sufficient proof of such value unless the chargor, his representatives or assigns shall require that any deponent be called as a witness ; in which case the chargor shall be at liberty to cross-examine such deponent and to call other witnesses as to the value of the land.

Power of Board to insure ; cost to be recoverable and included in security of charge.

19. In the event of any default by the chargor, his representatives or assigns in the performance of any undertaking expressed or by this Enactment or otherwise implied in a charge such as is referred to in Section 11 to insure and keep insured buildings, machinery, or plant in or upon the land charged, the Board may insure and keep insured the same or such part thereof as it may think fit, and the

chargor, his representatives and assigns shall be liable to repay to the Board on demand every sum of money expended by the Board in pursuance of this section with interest thereon at the rate mentioned in the charge, to be calculated from the date of the expenditure of such sum. Every such sum and the interest due for the time being thereon shall be deemed to be moneys secured by such charge.

Expenses incurred by Board to be included in security of charge.

20. All costs, charges, and expenses whatsoever which may be paid or incurred by the Board in any exercise of its rights or powers occasioned by default of the chargor, his representatives or assigns in the observance or performance of any undertaking or condition expressed or by this Enactment or otherwise implied in a charge such as is referred to in Section 11 shall be deemed to be moneys secured by such charge.

Power of Board to enter into possession of charged land, to exercise powers of owner, and to appoint receiver.

21. (i) In the event of any default by the chargor, his representatives or assigns in payment of the principal sum, interest, or any part thereof secured by a charge such as is referred to in Section 11 or in the observance or performance of any agreement or undertaking therein expressed or by this Enactment or otherwise implied or if at any time the market value of any land which is subject to such a charge as aforesaid shall not exceed the amount of the moneys advanced under, secured by, and still outstanding under such charge, the Board may in its discretion, instead of or before or after applying for an order of sale of the charged land, by itself or by any person authorized by it in that behalf under its common seal enter immediately into possession of the land charged or of any part thereof, as the Board may direct, and if it shall think fit, but not otherwise, carry on in and with the charged land the business therein and therewith carried on by the chargor, his representatives or assigns, and may manage and conduct the same as it shall in its discretion think fit and for the purposes of the said business or of such management may employ such agents, managers, servants, and workmen upon such terms as to remuneration or otherwise as it may think proper and may replace or repair such of the plant, machinery, and effects of the chargor, his representatives or assigns as shall be lost or worn out or shall otherwise become unserviceable and generally may do or cause to be done all such acts and things and may enter into such arrangements respecting the working of the charged land or any part thereof as it could do or enter into if it were absolutely entitled to the said land and shall not be responsible for any loss or damage which may be occasioned thereby ; and the chargor, his representatives and assigns and his and their servants and agents shall do all things necessary to facilitate the entry of the Board or its authorized agents into such possession as aforesaid and the conduct by it or them of such business as aforesaid ; and all costs, charges, and expenses incurred by the Board in the exercise of the powers vested in it by this section shall be recoverable by the Board from the chargor, his representatives and assigns and shall be deemed to be moneys secured by the said charge.

(ii) For the purposes of sub-section (i) the market value of the land charged may be proved in the manner provided by Section 18

(ii); where the chargor, his representatives or assigns require that witnesses be examined, he or they shall make application to the Supreme Court to determine the market value of the land and such Court shall determine the same.

(iii) Whenever the Board shall be entitled under sub-section (i) to enter into possession of charged land or any part thereof, the Board may either before or after it shall have entered into possession thereof appoint by writing under its common seal a receiver of the income of the charged land or any part thereof and may remove any receiver so appointed and appoint another in his stead, and every such receiver may exercise all the powers vested in the Board by sub-section (i) subject to any directions from time to time given by the Board.

(iv) The Board shall not nor shall its authorized agent or any receiver be liable, by reason of the Board or its authorized agent or a receiver entering into possession of charged land, to account as chargee in possession or for anything except actual receipts or be liable for loss or for any default or omission for which a chargee in possession might be liable, and every receiver duly appointed under this section shall be deemed to be the agent of the chargor, his representatives and assigns, and the chargor, his representatives and assigns shall be solely responsible for the acts and defaults of the receiver, unless the charge otherwise provides.

Restriction on further charging land charged to the Board.

22. No land which is subject to a charge such as is referred to in Section 11 shall be charged to any person except with the consent of the Board evidenced in writing under its common seal. Any charge made in contravention of this section shall be null and void and of no effect.

Prohibition of attachment in execution.

23. No land which is subject to a charge such as is referred to in Section 6 or in Section 11 shall, except with the consent of the Board under its common seal, be attached in execution of a decree. Any attachment in contravention of this section shall be null and void and of no effect.

Discharge.

24. A discharge of any charge such as is referred to in Section 6 or in Section 11 shall be signed by any one member of the Board and the Secretary to the Board.

Authority to act in proceedings for sale of charged land.

25. In proceedings for the sale of any land in pursuance of a charge such as is referred to in Section 6 or in Section 11 any member of the Board or other person duly authorized in that behalf by the Board under its common seal may make and do all appearances, applications, and acts necessary to be made or done by a chargee in such proceedings.

Inspection of charged land on behalf of the Board.

26. The Board may appoint any person to visit and inspect any land which is subject to a charge such as is referred to in Section 6 or in Section 11 or any land for the development or maintenance whereof any of the scheduled loans or any loan by the Board under this Enactment was made, and the owner and any person having the

management of such land shall give to every person so visiting or inspecting all such information in respect thereof as he may require and shall afford to him all reasonable facilities for investigation.

Penalty for obstructing the Board.

27. Any person who shall obstruct the Board or its authorized agents or any receiver appointed under Section 21 in the exercise of any power or duty conferred or imposed on the Board or on such receiver by this Enactment shall be liable to fine not exceeding five hundred dollars.

Annual report and accounts of the Fund.

28. The Board shall submit to the Chief Secretary on or before the 31st day of March in every year a report, signed by the Chairman, of the working of the Fund during the preceding year calculated from the 1st day of January to the 31st day of December with a detailed statement of accounts and of the financial position of the Fund at the close of business on the 31st day of December.

Audit of accounts of the Board.

29. The accounts of the Board shall be audited at least once a year at such time and by such person as the Chief Secretary shall appoint.

Protection of individuals against legal proceedings.

30. No member, servant, agent, or person acting under the authority of the Board shall be personally liable to any action or proceeding for or in respect of any act, matter, or thing done or omitted to be done in the exercise or supposed exercise of any of the rights or powers of the Board.

Protection of the Board against legal proceedings.

31. No action against the Board by a chargor or any person claiming through or under him shall be entertained by any Court in respect of any act done or omitted to be done by any member or servant of the Board or by any person under its authority in breach of any contract or duty owed by the Board or in excess of the rights and powers of the Board; provided that this section shall not apply where such act so done or omitted to be done shall have previously been expressly sanctioned by the Board.

Rules.

32. The Chief Secretary may from time to time make rules to regulate

(*a*) the procedure of the Board and the fixing of a *quorum*;

(*b*) the keeping, rendering, and auditing of the accounts of the Board;

(*c*) any other matter relating to the powers and duties of the Board under this Enactment.

Such rules shall be published in the *Gazette* and shall thereupon have the same force and effect as if they had been enacted in this Enactment.

Relative priority of charges unaffected. Provision as to Enactment No. 5 of 1910.

33. Nothing in this Enactment contained shall affect the relative priorities of persons claiming by virtue of different charges registered in respect of the same land or shall, except as herein expressly provided, affect the operation of "The Government Loans Security Enactment, 1910."

SCHEDULE.

Charges.				Titles.		
Date of Presentation.	Presentation No.	Register of Charges.		Title No.	Register of Titles.	
		Volume No.	Folio No.		Volume No.	Folio No.
				STATE OF PERAK.		
8- 3-1911	8,661	7	99	Grant 1,392	13	98
4- 8-1911	9,008	7	170	,, 1,573 and Certificate of Title 554 ..	14 and 6	167 and 148
12- 8-1911	9,018	7	175	,, 1,298	12	43
1- 2-1912	9,389	8	50	,, 1,527	14	100
15- 2-1912	29,707	20	153	,, 6,383 and 8,185	34 and 43	177 and 178
28- 2-1912	9,454	8	66	,, 1,392, 1,651, 1,652, and 1,725	13 and 15	98, 80, 81, and 191
6- 3-1912	9,463	8	67	,, 488	5	172
12- 4-1912	30,494	21	43	,, 8,930 and 9,396	47 and 49	122 and 187
22- 4-1912	9,572	8	92	,, 1,650	15	78
4- 6-1912	9,677	8	109	,, 1,296 and Certificate of Title 2,706 ..	12 and 12A	41 and 106
12- 6-1912	9,726	8	113	,, 1,433 and 1,434	13	140 and 141
23- 7-1912	31,947	22	9	,, 7,140, 8,722, and 9,492	38, 46, and 50	133, 115, and 83
13- 8-1912	9,870	8	148	,, 1,588 and 1,804	14 and 16	190 and 97
27- 8-1912	9,929	8	158	,, 1,705 and 1,706	15	160 and 161
27- 9-1912	10,030	8	178	,, 1,534	14	123
10-10-1912	33,324	22	164	,, 9,086 and 9,731	48 and 51	78 and 122
31-10-1912	33,652	23	10	,, 8,896 and 8,917	47	88 and 109
1-11-1912	10,144	8	192	,, 1,298	12	43
31-12-1912	34,548	23	117	,, 8,208	44	1

20- 1-1913	10,323	9	31	,, 1,392, 1,725, 1,652, and 1,651	13 and 15	98, 191, 81, and 80
29- 1-1913	35,046	23	187	,, 6.327	34	121
5- 2-1913	35,160	24	13	,, 2,018, 6,711, 6,783, 6,784, 4,950, and 5,885	11, 36, 27, and 32	175, 104, 176, 177, 135, and 80
1- 3-1913	10,417	9	59	,, 1,883	17	14
25- 3-1913	10,471	9	75	,, 1,433 and 1,434	13	140 and 141
26- 3-1913	10,478	9	76	Certificate of Title 3,244	15A	44
28- 3-1913	35,931	24	133	Grant 8,306 and 9,339	44 and 49	99 and 132
4- 4-1913	36,073	24	159	,, 7,963	42	156
21- 4-1913	10,577	9	98	,, 1,609, 1,637, and Certificate of Title 703 and 705	15 and 19	15, 58, 129, and 131
21- 4-1913	10,578	9	99	,, 154, 155, and Certificate of Title 597 ..	2 and 7	159, 160, and 114
2- 5-1913	10,625	9	105	,, 1,621	15	27
26- 5-1913	36,932	25	79	,, 5,901	32	96
5- 6-1913	37,069	25	102	,, 9,505	50	96
21- 6-1913	10,763	9	139	Certificate of Title 1,307	16	138
26- 6-1913	38,286	25	158	Grant 9,729, 9,728, and 9,393	51 and 49	120, 119, and 184
1- 7-1913	10,790	9	146	,, 1,882	17	13
2- 7-1913	38,358	25	182	,, 6,025	33	20
12- 7-1913	10,838	9	156	,, 1,590 and Certificate of Title 1,366 ..	14 and 17	193 and 69
19- 7-1913	10,849	9	160	,, 336 and Certificate of Title 1,171 and 1,327	4, 14, and 17	189, 85, and 2
25- 7-1913	38,705	26	32	,, 112 and 5,765	1 and 31	115 and 161
5- 8-1913	10,881	9	173	,, 1,783	16	70
6- 8-1913	38,833	26	59	,, 8,208	44	1
7- 8-1913	10,884	9	175	,, 1,296 and Certificate of Title 2,706 ..	12 and 12A	41 and 106
30- 8-1913	39,199	26	126	,, 10,496	55	86
12- 9-1913	39,334	26	149	,, 9,434	50	25
6-10-1913	39,651	26	187	,, 6,383 and 8,185	34 and 43	177 and 178

SCHEDULE—(*cont.*).

Charges.				Titles.		
Date of Presentation.	Presentation No.	Register of Charges.		Title No.	Register of Titles.	
		Volume No.	Folio No.		Volume No.	Folio No.
				STATE OF PERAK—(*cont.*).		
29-10-1913	11,098	10	20	Grant 1,433 and 1,434	13	140 and 141
19-12-1913	11,214	10	49	,, 1,478, 1,479, 1,528, 1,595, 1,602, and 1,739	14, 15, and 16	40, 41, 110, 198, 5, and 18
2- 3-1914	867	29	35	,, 1,876	16	199
9- 3-1914	979	29	56	,, 540, 2,943, 3,412, 3,413, 3,414, 3,672, 3,673, 4,929, 6,219, 6,223, 6,224, 6,233, 6,234, 6,235, 6,249, 6,255, 6,256, 6,335, 6,371, 6,511, 6,569, 6,590, 6,591, 6,600, 6,619, 6,670, 7,051, 7,290, 7,325, 7,614, 7,640, 8,843, 8,862, 8,863, 8,864, 8,865, 8,984, 8,729, 8,730, 10,472, 11,283, and 11,284. Certificate of Title 1,311	4, 17, 19, 20, 27, 34, 35, 36, 38, 39, 41, 47, 46, 55, 59, and 5A	27, 9, 96, 97, 98, 166, 167, 113, 14, 18, 19, 28, 29, 30, 44, 50, 51, 129, 165, 104, 162, 183, 184, 193, 12, 63, 44, 83, 118, 7, 33, 36, 55, 56, 57, 58, 176, 122, 123, 62, 73, 74, and 111
30- 3-1914	1,334	29	140	,, 9,543	50	134
16- 4-1914	1,602	29	189	,, 9,398 and 8,074	49 and 43	189 and 67
18- 5-1914	2,088	30	100	,, 8,896 and 8,917	47	88 and 109

23- 6-1914	2,618	31	37	,, 1,344, 1,788, 1,787, 1,786, and 1,789 ..	12 and 16	196, 75, 74, 73, and 76
26- 6-1914	2,697	31	50	,, 9,505	50	96
31- 7-1914	3,258	31	165	,, 8,930 and 9,396	47 and 49	122 and 187
,,	3,261	31	166	,, 1,543 and 11,470	14 and 60	134 and 60
27- 8-1914	3,588	32	21	,, 8,209, 8,424, 8,724, 9,494, and 10,621 ..	44, 45, 46, 50, and 56	2, 17, 117, 85, and 11
,,	3,586	32	19	,, 1,314, 1,631, Certificate of Title 1,172, and Grant 1,632	12, 14, and 15	84, 86, 37, and 38
13- 1-1915	5,437	33	125	,, 7,547, 7,555, 9,359, 9,360, and 10,421, Certificate of Title 1,566, 1,567, 1,570, and 2,451	40, 49, 55, 6A, and 11A	140, 148, 152, 153, 12, 166, 167, 170, and 51
8- 2-1915	5,769	34	16	,, 12,066	63	56
20- 2-1915	5,874	34	51	,, 1,895 and 11,599	17 and 60	29 and 189
15- 3-1915	6,167	34	119	,, 9,326	49	119
5- 5-1915	7,182	35	118	,, 9,087 and 9,038	48	79 and 30
6- 7-1915	8,118	36	89	,, 1,321, 1,529, and 1,630	12, 14, and 15	157, 111, and 36
7- 9-1915	9,159	37	113	Certificate of Title 2,720	12A	120
,,	9,147	37	107	Grant 9,334 and 9,497	49 and 50	127 and 88
22-10-1915	9,958	38	89	,, 1,441, 1,577, and 1,715	13, 14, and 15	152, 171, and 171
9-11-1915	10,285	38	143	,, 1,859, 1,860, and 1,901	16, 16, and 17	178, 179, and 63
				STATE OF SELANGOR.		
30- 4-1908	19,993	20	131	Grant 4,072	35	164
16-12-1909	23,811	24	44	,, 4,072	35	164
12- 5-1911	27,177	27	3	,, 4,072	35	164

SCHEDULE—(*cont.*).

Charges.				Titles.		
Date of Presentation.	Presentation No.	Register of Charges.		Title No.	Register of Titles.	
		Volume No.	Folio No.		Volume No.	Folio No.
				STATE OF SELANGOR—(*cont.*).		
6- 6-1911	27,353	27	22	Grant 3,061, 3,109, 3,106, 3,107, 3,108, and 3,111	27	3, 51, 48, 49, 50, and 53
15- 9-1911	28,076	27	132	,, 4,401, 5,186, 5,242, and 5,243	38, 45, and 46	90, 166, 24, and 25
25-10-1911	28,383	27	192	,, 4,562, 4,565, and 4,757	40 and 42	128, 134, and 160
7-11-1911	28,505	28	13	,, 4,128	36	49
27- 2-1912	29,277	28	168	,, 3,105 and 3,104	27	47 and 46
15- 7-1912	30,364	29	166	,, 4,072	35	164
30- 8-1912	30,868	30	60	,, 4,342 and 4,697	38 and 41	1 and 172
3- 1-1913	31,932	31	53	,, 4,128	36	49
28- 1-1913	32,134	31	104	,, 4,160, 5,455, 5,625, and Certificate of Title 3,856	36, 47, 49, and 48	93, 121, 57, and 198
20- 3-1913	32,515	31	192	,, 4,561, 4,726, 4,727, and 4,728	40 and 42	127, 126, 127, and 128
13- 5-1913	32,949	32	87	,, 4,377	38	61
19- 5-1913	33,610	32	94	,, 5,175 and 5,277	45 and 46	155 and 73
23- 6-1913	33,326	32	160	,, 4,823, 5,112, and 5,610..	43, 45, and 49	82, 66, and 38
8- 7-1913	33,459	32	189	,, Certificate of Title 3,957 .. .	50	95
28- 7-1913	33,619	33	24	Grant 4,795 and 4,796	43	23 and 24

31- 7-1913	33,654	33	31	,, 4,867, 5,346, 5,347, and 5,527	43, 46, and 48	152,174, 175, and 50
20- 8-1913	33,831	33	65	,, 5,562	48	125
27- 8-1913	38,891	33	75	,, 5,701	49	178
5- 9-1913	33,965	33	92	,, 5,653	49	97
13-11-1913	34,517	34	28	,, 4,342 and 4,697	38 and 41	1 and 172
31- 1-1914	35,147	34	179	,, 2,381, 4,829, 4,834, 5,136, 5,261, 5,726, and 5,727, and Certificate of Title 4,007	20, 43, 45, 46, 50, and 51	60, 95, 105, 90, 56, 17, 18, and 154
6- 2-1914	35,188	34	193	,, 6,105	52	125
19- 2-1914	35,262	35	26	,, 5,562	48	125
15- 4-1914	35,691	35	133	,, 4,401, 5,186, 5,242; 5,243, and 5,244 ..	38, 45, and 46	90, 166, 24, 25, and 26
24- 4-1914	35,847	35	160	,, 6,060	52	44
10- 6-1914	36,223	36	39	,, 5,126, 5,127, 5,294, 5,314, 5,329, and 6,000	45, 46, and 51	80, 81, 101, 126, 155, and 159
20- 6-1914	35,286	36	46	,, 5,103, 5,104, 5,105, and 5,149	45	49, 50, 51, and 106
5- 8-1914	36,671	36	121	,, 4,867, 5,346, 5,347, and 5,527	43, 46, and 48	152, 174, 175, and 50
7- 8-1914	36,682	36	129	,, 5,701	49	178
12-10-1914	36,956	36	176	Certificate of Title 3,957	50	95
8- 5-1915	38,241	37	188	Grant 2,381, 4,829, 4,834, 5,136, 5,261, 5,726, 5,727, and Certificate of Title 4,007 .	20, 43, 45, 46, 50, and 51	60, 95, 105, 90, 56, 17, 18, and 154
17- 5-1915	38,299	38	3	,, 5,794 and 5,795	50	115 and 116
29- 5-1915	38,441	38	28	,, 6,073, 6,074, 6,075, 6,076, and 6,077 ..	52	78 and 82
29- 5-1915	38,444	38	30	,, 4,160, 5,455, 5,625, and Certificate of Title 3,856	36, 47, 49, and 48	93, 121, 57, and 198
29- 5-1915	38,445	38	31	,, 4,160, 5,455, 5,625, and Certificate of Title 3,856	36, 47, 49, and 48	93, 121, 57, and 198

SCHEDULE—(*cont.*).

Charges.				Titles.		
Date of Presentation.	Presentation No.	Register of Charges.		Title No.	Register of Titles.	
		Volume No.	Folio No.		Volume No.	Folio No.
				STATE OF SELANGOR—(*cont.*).		
12- 6-1915	38,802	38	98	Grant 5,794 and 5,795	50	115 and 116
19- 7-1915	38,864	38	111	,, 5,331	46	157
20- 7-1915	38,889	38	120	,, 4,377	38	61
26-10-1915	39,809	39	81	,, 5,532 and 5,624	48 and 49	55 and 56
3-11-1915	39,877	39	94	,, 5,490, 5,264, 5,179, 5,324, and 5,483 ..	47, 46, 45, 46 and 47	194, 59, 159, 150, and 162
				STATE OF NEGRI SEMBILAN.		
9-12-1910	5,420	7	23	Grant 2,557 and Certificate of Title 179 ..	26 and 45	91 and 53
31- 5-1911	6,274	7	73	,, ,, ,, ,, ,. ..	26 and 45	91 and 53
15- 9-1911	6,775	8	6	,, 1,704	18	4
4- 3-1912	7,575	8	67	,, 2,737 and 2,738	28	75 and 76
14- 3-1912	7,617	8	76	Agricultural Lease Nos. 381 and 382.. ..	2	81 and 82
9- 5-1912	7,890	9	8	Grant 2,679 and 2,756	28	17 and 94
27- 8-1912	8,437	9	47	,, 3,016	31	60
18- 9-1912	8,516	9	66	,, 3,048	31	92
17- 9-1912	8,512	9	65	,, 3,098 and 3,140	32	42 and 84
19- 9-1912	8,519	9	68	,, 4,868	51	79
23- 9-1912	8,533	9	69	,, 2,796 and Certificate of Title 44 ..	32 and 29	98 and 34

24- 9-1912	8,540	9	73	,,	3,327	34	80
9-10-1912	8,624	9	80	,,	3,646	38	6
23-11-1912	8,845	9	96	,,	1,735 and 1,744 and Certificate of Title 276	18 and 55	35, 44, and 4
5-12-1912	8,925	10	6	,,	2,523 and 3,751	26 and 39	50 and 34
17-12-1912	8,961	10	11	,,	1,562, 1,568, and 3,702	16 and 38	62, 68, and 69
8- 1-1913	9,085	10	24	,,	1,752	18	52
17- 1-1913	9,116	10	29	,,	2,663	28	1
8- 4-1913	9,581	10	86	,,	3,419	35	75
13- 5-1913	9,776	11	8	,,	4,632	49	35
14- 5-1913	9,789	11	11	,,	2,584, 2,585, 2,586, 2,681, 4,300, 4,609, and Certificate of Title 189	27, 28, 45, 49, and 46	18, 19, 20, 19, 83, 12, and 68
20- 5-1913	9,821	11	14	,,	2,688	28	26
16- 6-1913	9,989	11	38	,,	2,737 and 2,738	28	75 and 76
20- 6-1913	10,018	11	44	,,	2,720	28	58
5- 7-1913	10,121	11	54	,,	4,582	48	80
30- 7-1913	10,241	11	69	,,	120, 121, 682, 1,801, and 4,615 ..	2, 7, 19, and 49	20, 21, 82, 11, and 18
6- 8-1913	10,262	11	72	,,	3,644	38	4
18-12-1913	11,051	11	159	,,	3,435	35	91
6- 3-1914	11,452	12	8	,,	2,386, 2,499, 2,948, and 3,637	25, 26, 30, and 37	13, 26, 88, and 97
6- 3-1914	11,453	12	9	,,	1,752	18	52
9- 3-1914	11,456	12	11	,,	2,523 and 3,751	26 and 39	50 and 34
,,	11,458	12	13	,,	4,862	51	73
23- 3-1914	11,530	12	21	,,	2,557and Certificate of Title 179 ..	26 and 45	91 and 53
11- 5-1914	11,850	12	59	,,	3,618	37	78
12- 6-1914	12,048	12	90	,,	2,663	28	1
,,	12,049	12	91	,,	3,099	32	43
7- 8-1914	12,479	12	161	,,	1,689, 1,702, and 2,583	17, 18, and 27	89, 2, and 17

SCHEDULE—(*cont.*).

Charges.				Titles.		
Date of Presentation.	Presentation No.	Register of Charges.		Title No.	Register of Titles.	
		Volume No.	Folio No.		Volume No.	Folio No.
				STATE OF NEGRI SEMBILAN—(*cont.*).		
24-12-1914	13,127	13	18	Grant 3,379	35	33
30-12-1914	13,187	13	21	,, 3,069 and 4,830	32 and 51	13 and 41
1- 3-1915	13,488	13	72	,, 3,729	38	97
30- 8-1915	14,816	14	29	Certificate of Title 190	46	69
1- 9-1915	14,832	14	30	,, ,, 174 and Grant 4,222 ..	45 and 44	40 and 16
13- 9-1915	14,922	14	44	,, ,, 311	56	94
16- 9-1915	14,933	14	47	Grant 3,085 and 4,100	32 and 42	29 and 94
				STATE OF PAHANG.		
12- 3-1912	1,852	4	22	Grant 1,015	20	15
30-11-1912	2,029	4	50	,, 535	10	35
16- 6-1913	2,281	5	23	,, 535	10	35
9- 8-1913	2,323	5	31	,, 995	19	45
25- 8-1914	2,759	6	34	,, 1,184	23	34
9- 6-1915	2,961	7	16	,, 1,026 and 1,173	20 and 23	26 and 23
8-11-1915	3,114	7	45	,, 689, 981, 1,042, 1,077, 1,078, 1,079, and 1,192	13, 19, 20, 21, and 23	39, 31, 42, 27, 28, 29, and 42

SCHEDULE—(*cont.*).

Charges.				Titles.
District.	Mukim.	Date of Presentation.	Charge No.	Entry in Mukim Register.
		STATE OF PERAK.		
Krian..	Kuala Kurau ..	21- 2-1912	8/1912	1,135, 1,136, 1,543, 1,553, 1,559, 1,621, and 2,105
Larut..	Sungei Tinggi ..	2- 3-1912	29/1912	708
Kuala Kangsar ..	Chegar Galah ..	19- 4-1912	216/1912	976
,, ..	Lubok Merbau ..	26- 9-1912	558/1912	590 and 818
,, ..	Kota Lama Kiri ..	26- 9-1912	558/1912	413 and 1,492
Krian..	Gunong Semanggol .	4- 4-1913	23/1913	1,209, 1,210, 1,242, 1,243, 1,523, and 2,000
Larut..	Sungei Tinggi ..	24- 1-1913	23/1913	708
,, ...	,, ..	19- 7-1913	246/1913	698
,, ...	Bukit Gantang ..	19-12-1913	396/1913	109
,, ...	Trong	19-12-1913	396/1913	9, 11, 12, and 561
,, ...	Bukit Gantang ..	24- 6-1914	146/1914	1,888
Batang Padang ..	Ulu Bernam ..	25- 8-1914	12/1914	434, 534, 591, 593, 595, 597, 599, and 601
Kuala Kangsar ..	Kota Lama Kiri ..	29- 6-1915	475/1915	3,147, 1,177, 1,176, 3,247, 1,609, and 1,425
Batang Padang ..	Bidor	31- 8-1915	185/1915	657, 658, 659, 660, 661, 403, 402, 430, 164, 141, 326, 139, 818, 330, 327, and 129
		STATE OF SELANGOR.		
Kuala Lumpur ..	Ampang	6- 6-1911	44/1911	106, 2,114, 2,125, and 2,126
,, ..	,, ...	27- 2-1912	17/1912	106, 2,114, 2,125, and 2,126
Ulu Selangor ..	Ulu Bernam ..	30- 8-1912	10/1912	57, 58, 66, 68, 69, 72, 77, 338, 339, 340, 536, 571, 597, and 598

SCHEDULE—(*cont.*).

Charges.				Titles.
District.	Mukim.	Date of Presentation.	Charge No.	Entry in Mukim Register.
		STATE OF SELANGOR—(*cont.*).		
Kuala Lumpur ..	Batu	28- 1-1913	14/1913	456, 2,064, 2,067, 2,070, 2,074, 2,120, 2,145, 2,146, 2,181, 2,182, 2,183, 2,184, 2,210, 2,211, 2,212, 2,213, 2.214, 2,215, 2,222, 2,224, 2,226, 2,228, 2,229, 2,230, 2,233, 2,307, 2,322, 2,440, 2,441, 2,442, 2,088, 2,078, 2,464, 3,126, 2,465, 2,089, 2,364, 2,103, 2,645, 3,328, 2,541, 2,542, and 2,658
Kuala Langat ..	Sepang	26- 6-1913	60/1913	2,001, 2,002, 2,003, 2,004, 2,043, 2,044, 2,045, 2,046, 2,061, 2,062, 2,063, 2,064, 2,065, 2,066, 2,067, 2,068, 2,069, 2,070, 2,071, 2,072, 2,073, 2,074, 2,075, 2,076, 2,077, 2,078, 2,079, 2,094, 2,095, and 2,096
Klang	Klang	14- 7-1913	172/1913	3,323
,, ...	Bukit Rajah ..	14- 7-1913	173/1913	2,094, 2,316, and 2,567
,, ...	Klang	14- 7-1913	173/1913	150
Ulu Langat	Semenyeh	6- 9-1913	546/1913	2,321, 2,322, 2,381, 2,473, and 2,474
Kuala Lumpur ..	Batu	31- 1-1914	15/1914	3,016 and 3,108 to 3,117 inclusive
Kuala Langat ..	Sepang	18- 3-1914	12/1914	2,001, 2,002, 2,003, 2,004, 2,043, 2,044, 2,045, 2,046, 2,061, 2,062, 2,063, 2,064, 2,065, 2,066, 2,067, 2,068, 2,069, 2,070, 2,071, 2,072, 2,073, 2,074, 2,075, 2,076, 2,077, 2,078, 2,079, 2,094, 2,095, and 2,096

Kuala Lumpur ..	Batu	25-11-1914	146/1914	3,538
Ulu Langat	Cheras	29- 1-1915	34/1915	2,484, 2,485, 2,498, 2,505, 2,779, 2,780, 2,781, 2,782, 2,783, and 2,760
Kuala Lumpur ..	Batu	8- 5-1915	65/1915	3,016, and 3,108 to 3,117 inclusive
,, ..	,, ...	20- 5-1915	84/1915	456, 2,064, 2,067, 2,070, 2,074, 2,120, 2,145, 2,146, 2,181, 2,182, 2,183, 2,184, 2,210, 2,211, 2,212, 2,213, 2,214, 2,215, 2,222, 2,224, 2,226, 2,228, 2,229, 2,230, 2,233, 2,307, 2,322, 2,440, 2,441, 2,442, 2,088, 2,078, 2,464, 3,126, 2,465, 2,089, 2,364, 2,103, 2,645, 3,328, 2,541, 2,542, and 2,658
,, ..	,, ...	,,	85/1915	

STATE OF NEGRI SEMBILAN.

Kuala Pilah	Ulu Muar	15- 8-1912	40	36
Seremban	Labu	8- 1-1913	1,565	689, 254, 672, 695, and 675
Coast	Linggi	31- 7-1913	16/13	386, 391, 392, 393, and 407
Seremban	Labu	7- 3-1914	2,032	689, 254, 672, 695, and 675

STATE OF PAHANG.

Raub	Bentong	25- 3-1912	9/1912	380 and 724
,, ...	Gali	4- 4-1914	27/1914	705
,, ...	Tras	4- 6-1915	13/1915	266, 267, 318, 319, 320, 250, 330, and 356
,, ...	,, ...	29-10-1915	63/1915	183

ENACTMENT NO. 1 OF 1916.

An Enactment to authorize the raising of a loan of $15,000,000.

ARTHUR YOUNG,
President of the Federal Council.

[28th March, 1916.
28th March, 1916.]

Preamble.

WHEREAS it is desirable that an opportunity be afforded for the local investment of moneys with the Government by way of loan, in order that such moneys may be available for the purposes of the war in which the British Empire is now engaged :

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The War Loan Enactment, 1916," and shall come into force on the publication thereof in the *Gazette*.

Interpretation.

2. In this Enactment "the Bank" means the Bank authorized by the Chief Secretary to Government to issue and manage the loan hereby permitted to be raised, and includes all branches, agencies, and sub-agencies of such Bank which are situate in the Federated Malay States.

Authority to raise loan.

3. The Chief Secretary to Government may raise a sum not exceeding fifteen million dollars by the issue in the Federated Malay States of debentures and the sum so raised shall be placed at the disposal of His Britannic Majesty's Government for the prosecution of the said war.

Loan to be a charge on general revenue.

4. The principal moneys and interest represented by the debentures issued under the provisions of this Enactment are hereby charged upon and shall be payable out of the general revenues and assets of the Federated Malay States and of each of them.

Issue of debentures.

5. The debentures shall be issued by the Bank upon the terms approved by the Government and shall be authenticated either by the signature of the Chief Secretary to Government or by a facsimile of such signature or in such manner as may be approved by the High Commissioner.

Refusal of applications.

6. Any application to take up debentures issuable under the provisions of this Enactment may be refused by the Chief Secretary to Government without reason assigned.

Sums for which debentures may issue.

7. The debentures shall be for such sums, not being less than fifty dollars, as the Chief Secretary to Government may direct and shall bear interest at the rate of six per centum per annum.

Redemption.

8. The debentures shall be redeemable at par on and after the first day of May, 1921, from and after which date all interest on the principal money represented thereby shall cease and determine, whether payment of the principal shall have been demanded or not.

Interest coupons.

9. There shall be attached to every debenture coupons for the payment of the interest to become due in each half-year upon the principal represented by the debenture.

Form of debentures and coupons.

10. The debentures and the coupons thereto shall be in such form as the Chief Secretary to Government or the Crown Agents for the Colonies in England acting on his behalf may approve.

Transfer by delivery.

11. Every debenture and coupon, and the right to receive the principal and interest represented thereby, shall be transferable by delivery.

Payment of interest.

12. The interest upon the principal represented by each debenture shall run from the day named in that behalf in the debenture and shall be paid half-yearly, on the days named in that behalf in the coupons, at the Bank.

Provision for payment of interest.

13. The Chief Secretary to Government shall, in each half-year ending with the day on which the interest on the debentures falls due, appropriate out of the general revenues and assets of the Federated Malay States a sum equal to one half-year's interest on the whole of the debentures outstanding, in order that the interest for the said half-year may be paid therefrom.

Delivery up of debentures on repayment.

14. Upon the repayment of the principal moneys represented by any debenture the debenture shall be delivered up to the Bank.

Exemption from duties and taxes.

15. The issue of debentures authorized by this Enactment shall be exempt from all duties and all taxes now levied or leviable or which may hereafter be levied or leviable in the Federated Malay States.

ENACTMENT NO. 8 OF 1916.

An Enactment to incorporate The War Loans Investment Trust of Malaya.

ARTHUR YOUNG,
President of the Federal Council.

[21st October, 1916.
21st October, 1916.]

WHEREAS an association styled "The War Loans Investment Trust of Malaya" has been established for the purpose of aiding persons resident in the Malay Peninsula to invest moneys to assist the prosecution of the war in which the British Empire is engaged :

AND WHEREAS it is expedient that the said association be incorporated and that certain privileges be conferred upon it :

NOW THEREFORE it is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The War Loans Investment Trust of Malaya Enactment, 1916," and shall come into force on the publication thereof in the *Gazette*.

Interpretation.

2. In this Enactment "the Trust" means The War Loans Investment Trust of Malaya.

Incorporation of the Trust.

3. From and after the commencement of this Enactment the members of the Trust together with such other persons as may from time to time become members of the Trust shall be a body corporate under the name of "The War Loans Investment Trust of Malaya" having perpetual succession and a common seal and may under the said name sue and be sued in all Courts.

Members of the Trust.

4. Every person who shall be registered in the books of the Trust as the holder of any share or debenture stock issued by the Trust shall be deemed to be a member of the Trust.

Original share capital.

5. The original share capital of the Trust shall be six million dollars which shall be divided into shares of such denomination as the Committee of Management shall from time to time determine.

Investment of share capital.

6. All share capital which may from time to time be subscribed by members of the Trust shall be invested in new issues of War Loans stock, Exchequer bonds or other securities to be made by His Britannic Majesty's Government or by the Government of any British Possession or Protectorate.

Payment of Interest.

7. (i) The interest payable upon the share capital from time to time subscribed by members of the Trust shall be at the rate of not less than six per centum per annum. Such interest shall be calculated in each case as from the first day of the month following that

in which the share capital is subscribed, and the first payment thereof shall be made on the first day of July, 1917, and subsequent payments on the first days of January and July in every year.

(ii) If upon any day appointed under the preceding sub-section for the payment of interest the funds in the possession of the Trust which are lawfully applicable to the payment of interest shall be insufficient to pay interest at the rate of six per centum per annum upon the share capital subscribed, the Chief Secretary to Government shall advance out of the funds of the Federated Malay States such sum as may, when added to the funds aforesaid in the possession of the Trust, be sufficient to pay such interest at the rate of six per centum per annum and shall deliver the same to the Trust.

(iii) Every such sum so advanced shall be repaid by the Trust to the Government as soon as funds sufficient for such repayment and lawfully applicable thereto shall have come into the possession of the Trust.

Exemption from duties and taxes.

8. All share certificates and interest warrants issued by the Trust and all receipts for subscriptions given to subscribers by the Trust or its agents and all interest payable upon the share capital shall be exempt from all duties and all taxes now levied or leviable or which may hereafter be levied or leviable in the Federated Malay States.

Powers vested in the Trust.

9. The Trust is authorized and empowered from time to time to do all or any of the following things, namely,

(*a*) to increase, subject to the approval in writing of the Chief Secretary to Government first obtained, the share capital of the Trust by the issue of further shares and to divide the shares of the Trust whether forming part of the original or any subsequent issue into different classes with preferential or other rights ;

(*b*) to borrow money and to secure the repayment of such money by means of debentures and other obligations or securities ;

(*c*) to realize from time to time any or all of the invested capital of the Trust and to re-invest the same, subject to the provisions of Section 6 ; and

(*d*) notwithstanding anything in this Enactment contained, to purchase the shares of the Trust if the same shall be offered for sale by any member of the Trust at par or at less than the par value thereof.

By-laws.

10. (i) From and after the commencement of this Enactment, except as is hereinafter otherwise provided, the affairs of the Trust shall be regulated by the by-laws set forth in the schedule hereto.

Amendment of by-laws.

(ii) The said by-laws or any of them may from time to time be revoked, altered, or added to by the Committee of Management for the time being in office.

Approval of Chief Secretary necessary.

(iii) No by-law not contained in the schedule hereto and no revocation, alteration, or addition of or to any by-law shall come into operation until the same shall have been approved by the Chief

Secretary to Government and shall have been published in the *Gazette*.

Management of the Trust.

11. The management of the Trust shall be vested in a Committee of Management consisting of a Chairman and such number of members as shall be prescribed by the by-laws of the Trust for the time being in force.

First Committee of Management.

12. From and after the commencement of this Enactment the Chairman of the Trust shall be Eric Macfadyen and the other members of the Committee of Management shall be Eu Tong Sen, Arthur Knowlton Everest Hampshire, Henry Armstrong Smallwood, Ernest Talbot Cope Garland, James McClymont, and William Duncan, and the said Committee of Management shall hold office until the second general meeting to be held under the provisions of By-law 19.

Office of the Trust.

13. The Trust shall have an office situate in the Federated Malay States to which all communications and notices may be addressed and in which shall be kept a register of its members and all such other books and documents as a Company registered under the provisions of The Companies Enactment, 1897, is by law required to keep.

Examination of affairs of Trust by Inspectors.

14. The Chief Secretary to Government may at any time appoint one or more Inspectors to examine into the affairs of the Trust and to report thereon in such manner as he may direct, and upon application made by any Inspector so appointed it shall be the duty of all officers and agents of the Trust to produce for examination all books and documents in their possession or power.

High Commissioner may order that Trust be wound up.

15. The High Commissioner may at any time not less than twelve months after the termination of the present war, or at any other time if it shall be made to appear to him that the Trust has substantially failed to effect the purpose for which it is incorporated or has neglected to observe or perform any of the obligations imposed upon it by this Enactment, or that the public interest so requires, revoke and annul by writing under his hand the privileges, powers, and rights hereby conferred upon the Trust and the affairs of the Trust shall thereupon be wound up.

Government guarantee as to repayment of capital.

16. If upon the winding-up of the Trust, whether the same be effected in pursuance of the provisions of the preceding section or otherwise, the assets of the Trust shall be insufficient to repay to each member the full amount of the share capital subscribed by him, the Chief Secretary to Government shall appropriate out of the general revenues and assets of the Federated Malay States such sum as may, when added to the said assets, be sufficient to repay such share capital in full and shall deliver the same to the Trust.

Application of The Companies Enactment, 1897.

17. In all matters not provided for in this Enactment or in by-laws made under Section 10 hereof the provisions of The Companies Enactment, 1897, shall apply to the Trust as though the Trust were a Company registered under the said Enactment and the Committee of Management were the Directors thereof.

THE SCHEDULE.

BY-LAWS.

INTERPRETATION.

1. In these by-laws—

"the Committee" means the Committee of Management of the War Loans Investment Trust of Malaya;

"the Chairman" means the Chairman of the said Committee;

"the Enactment" means The War Loans Investment Trust of Malaya Enactment, 1916; and

"the Trust" means the War Loans Investment Trust of Malaya.

ADMISSION OF MEMBERS.

2. Every application for the allotment of shares of the Trust shall be in the following form:

THE WAR LOANS INVESTMENT TRUST OF MALAYA.

FORM OF APPLICATION FOR SHARES.

To The War Loans Investment Trust of Malaya,
Kuala Lumpur, Federated Malay States.

Gentlemen,

Having paid to.....the sum of $.....on application for..... shares in the above Trust, I request that I may be admitted a member of the Trust. I undertake, if admitted, and for so long as my membership shall continue, to be subject to the by-laws of the Trust and any by-laws that may be added to or substituted for the same, and to accept the ruling of the Committee of Management for the time being on all matters relating to the said by-laws and on all other matters in respect whereof powers are by the said by-laws vested in the said Committee of Management.

As witness my hand this.....day of.....19..

Usual signature.....

Name in full.....
(Please state if Mr., Mrs., or Miss)

Description. ....

Address.....

3. Every such application shall be considered by the Committee or by a Sub-Committee appointed by the Committee for the purpose which shall determine whether the same shall be granted or refused. In every case the decision of the Committee or Sub-Committee, as the case may be, shall be final.

Shares.

4. The shares shall be under the control of the Committee which may allot or otherwise dispose of the same to members on such terms and conditions as it shall think fit with full powers to give to any member the call of any shares at par or at a premium.

5. Save as herein otherwise provided the Trust shall be entitled to treat the registered holder of any share as the absolute owner thereof and accordingly shall not except as ordered by a Court of competent jurisdiction or as by law required be bound to recognize any equitable or other claim or interest in such share on the part of any other person.

6. The certificates of title to shares shall be issued under the seal of the Trust and signed either by two members of the Committee or by one member of the Committee and by the Secretary.

7. There shall be issued to every member one certificate for all the shares allotted to him in any one calendar month. If any member shall apply for more certificates than one in respect of such shares, separate certificates will be issued accordingly on payment of fifty cents for each additional certificate.

8. If any certificate be worn out or defaced, then, upon production thereof the Committee may order the same to be cancelled, and may issue a new certificate in lieu thereof, and if any certificate be lost or destroyed, then, upon proof thereof to the satisfaction of the Committee and on such indemnity as the Committee deems adequate being given, a new certificate in lieu thereof shall be given to the party entitled to such lost or destroyed certificate.

9. For every certificate issued under the last preceding clause there shall be paid to the Trust the sum of one dollar or such smaller sum as the Committee may determine.

10. The certificates of shares registered in the names of two or more persons shall be delivered to the person first named on the register.

Transfers of Shares.

11. The instrument of transfer of any share shall be signed both by the transferor and transferee, and the transferor shall be deemed to remain the holder of such share until the name of the transferee is entered in the register of members in respect thereof.

12. The instrument of transfer of any share shall be in writing in the usual common form, or as near thereto as circumstances will admit.

13. The Committee may decline to register any transfer without assigning any reason for such refusal.

14. No transfer shall be made to an infant or person of unsound mind.

15. Every instrument of transfer shall be duly stamped and shall be left at the office for registration, accompanied by the certificate of the shares to be transferred, and such other evidence as the Trust

may require to prove the title of the transferor, or his right to transfer the shares.

16. The transfer books and register of members may be closed during such time as the Committee thinks fit, not exceeding in the whole thirty days in each year.

Transmission of Shares.

17. The executors or administrators of a deceased member (not being one of several joint holders) shall be the only persons recognized by the Trust as having any title to the shares registered in the name of such member, and in case of the death of any one or more of the joint holders of any registered shares, the survivors shall be the only persons recognized by the Trust as having any title to or interest in such shares.

18. Any person becoming entitled to shares in consequence of the death or bankruptcy of any member, upon producing such evidence that he sustains the character in respect of which he proposes to act under this clause, or of his title, as the Committee thinks sufficient, may, with the consent of the Committee (which it shall not be under any obligation to give), be registered as a member in respect of such shares, or may, subject to the regulations as to transfers hereinbefore contained, transfer such shares. This clause is hereinafter referred to as " the transmission clause."

General Meetings.

19. A general meeting of the members of the Trust shall be held within three months after the incorporation of the Trust. Subsequent general meetings shall be held annually not later than the 30th day of April in each year. In every case the Committee shall determine the place where such meetings shall be held.

The general meetings referred to in this by-law shall be called " ordinary " meetings ; all other general meetings of the Trust shall be called " extraordinary meetings."

20. The Committee may, whenever it thinks fit, and shall on a requisition made in writing by not less than eight members of the Trust, proceed forthwith to convene an extraordinary meeting.

21. If the Committee does not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other members amounting to the required number may themselves convene an extraordinary meeting.

Proceedings at General Meetings.

22. Fourteen clear days' notice of every general meeting, specifying the place, day, and hour of meeting and in case of special business the general nature of such business, shall be given to all members resident in the Federated Malay States by notice advertised in the *Government Gazette* and in not less than two daily newspapers published in the Federated Malay States and by a notice posted on the notice board in the office of the Trust.

23. The business of an ordinary meeting shall be

(*a*) to receive and consider the accounts and the report of the Committee and of the auditors ;

(*b*) to elect the following officers for the ensuing twelve months :

(1) A Chairman of the Committee ; and

(2) Six other members to be members of the Committee.

(*c*) any other business which by virtue of these by-laws ought to be transacted at an ordinary meeting.

24. The Chairman shall be entitled to take the chair at every general meeting or if there be no such Chairman or if at any meeting he shall not be present within fifteen minutes after the time appointed for such meeting or if being present he shall refuse to act as Chairman the members present shall choose some one of the members of the Committee to act as Chairman and if no member of the Committee be present, some one of the members of the Trust who is present.

25. Seven members present in person shall, independently of their voting power, form a quorum for any general meeting, but if within half an hour from the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same time and place, and if at such adjourned meeting a quorum is not present those members who are present shall be a quorum and may transact the business for which the meeting was called.

26. Every question submitted to a meeting shall, in the first instance, be decided by a shew of hands and in the case of an equality of votes the Chairman shall, both on a shew of hands and at the poll, have a casting vote in addition to the vote or votes to which he may be entitled as a member.

27. Any member present at a meeting shall be entitled to demand a poll, and if a poll be demanded it shall be taken in such manner and at such time and place as the Chairman of the meeting directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

Votes of Members.

28. Every member shall have one vote and one vote only.

29. Votes may be given either personally or by proxy.

30. The instrument appointing a proxy shall be in writing under the hand of the appointer or his attorney or if such appointer is a corporation or company under its common seal or the hand of its attorney or general manager.

31. The instrument appointing a proxy and the power of attorney if any under which it is signed shall be deposited at the office of the Trust not less than twenty-four hours before the time for holding the meeting or adjourned meeting, as the case may be, at which the person named in such instrument proposes to vote.

32. Every instrument of proxy whether for a specified meeting or otherwise shall, as nearly as circumstances admit, be in the form or to the effect following :

WAR LOANS INVESTMENT TRUST OF MALAYA.

I,....., of....., a member of the War Loans Investment Trust of Malaya, hereby appoint....., of....., to vote for me and on my behalf at the.....meeting of the said Trust to be held on the.....day of....., 19.., and at every adjournment thereof.

As witness my hand this.....day of....., 19..

Signature ..... Three cents stamp.

Nomination of Officers.

33. Persons proposed for election as Chairman or as members of the Committee shall be nominated by forwarding to the Secretary of the Trust a notice in writing specifying the names of such persons, signed by one or more members of the Trust; a copy of every such notice shall be posted on the notice board of the Trust not less than fourteen days previous to the holding of the annual general meeting, and the election of Chairman and of members of the Committee shall take place at the annual general meeting.

Committee of Management.

34. The Committee shall consist of the Chairman and six (6) other members.

35. The Committee shall meet together for the dispatch of business once a month or oftener if need be and at other times on the requisition of three of its members or of the Chairman and may adjourn and regulate its meetings and proceedings as it may think fit and may determine the quorum necessary for the transaction of business. Until otherwise determined three members shall form a quorum. At least five days' notice of Committee meetings shall be given to members of the Committee and the notices shall state the nature of the business to be considered at such meetings; provided that in cases of emergency the Chairman may call a meeting of the Committee at any time upon such notice (if any) as he may think necessary.

36. The Chairman shall preside at all meetings at which he is present and in his absence the members present shall choose some one of their number to preside.

37. Questions arising at any meeting of the Committee shall be decided by a majority of votes, each member being entitled to one vote, and in case of an equality of votes the Chairman or other member presiding shall have a second or casting vote.

38. The Committee may delegate any of its powers to Sub-Committees, on each of which there shall be at least one member of the Committee. Sub-Committees so formed shall, in the exercise of the powers delegated, conform to any regulations that may from time to time be imposed upon them by the Committee. The decision of a Sub-Committee shall in all cases be referred to the Committee, unless the Sub-Committee has previously been empowered by the Committee to act on its decisions.

39. The meetings and proceedings of all such Sub-Committees shall be governed by the provisions of these by-laws for regulating the meetings and proceedings of the Committee so far as the same can be applied thereto and are not superseded by regulations made by the Committee under the last preceding by-law.

40. All acts done by any meeting of the Committee or by a Sub-Committee or by any person acting as a member of the Committee or a Sub-Committee shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of such Committee or Sub-Committee or person acting as aforesaid or that any member of such Committee or Sub-Committee or such person acting as aforesaid was disqualified, be as valid as if every member of such Committee or Sub-Committee or person acting as aforesaid had been duly appointed and was qualified to act.

Retirement of Officers.

41. A member of the Committee may retire from his office upon giving one month's notice in writing to the Secretary of the Trust of his intention so to do, and such resignation shall take effect upon the expiration of such notice or its earlier acceptance.

42. The Chairman or any member of the Committee shall vacate office :

(*a*) if he becomes bankrupt or suspends payment or compounds with his creditors ;

(*b*) if he is found lunatic or become of unsound mind ;

(*c*) if he is absent from the meetings of the Committee during a period of three calendar months without special leave of absence from the other members of the Committee ;

(*d*) if by notice in writing to the Secretary of the Trust he resigns his office ;

(*e*) if he is requested in writing by all the other members of the Committee to resign.

Remuneration of Officers.

43. Neither the Chairman nor any member of the Committee or of any Sub-Committee shall be entitled to remuneration for his services, but he shall be paid the travelling expenses incurred in attending and returning from meetings of the Committee or Sub-Committee, as the case may be.

Powers and Duties of Officers.

44. The business of the Trust shall be managed by the Committee who may exercise all such powers of trust as are not by the Enactment or by these by-laws required to be exercised by the Trust in general meeting.

45. Without prejudice to the general powers otherwise vested in the Committee the following particular powers are conferred upon it, namely,

(*a*) to pay the costs, charges, and expenses preliminary and incidental to the promotion and establishment of the Trust;

(*b*) to appoint and at its discretion remove or suspend such managers, secretaries, officers, clerks, agents, and servants for permanent, temporary, or special services, as it may from time to time think fit, and to determine their powers and duties, and fix their salaries or emoluments, and to require security in such instances and to such amount as it thinks fit;

(*c*) to accept from any member, on such terms and conditions as shall be agreed, a surrender of his share or stock or any part thereof;

(*d*) to appoint any person or persons (whether incorporated or not) to accept and hold in trust for the Trust any property belonging to the Trust, or in which it is interested, or for any other purposes, and to execute and do all such deeds and things as may be requisite in relation to any such trust, and to provide for the remuneration of such trustee or trustees;

(*e*) to institute, conduct, defend, compound, or abandon any legal proceedings by or against the Trust, or its officers, or otherwise concerning the affairs of the Trust, and also to compound and allow time for payment or satisfaction of any debts due to the Trust;

(*f*) to refer any claims or demands by or against the Trust to arbitration and observe and perform the awards;

(*g*) to make and give receipts, releases, and other discharges for money payable to the Trust, and for the claims and demands of the Trust;

(*h*) to determine who shall be entitled to sign on the Trust's behalf bills, notes, receipts, acceptances, indorsements, cheques, releases, contracts, and documents;

(*i*) to fill up any vacancy occurring in the Committee;

(*j*) to set aside out of the profits of the Trust such sums as may be available after the payment of interest to be a reserve which shall, at the discretion of the Committee, be applicable to any purpose to which the profits of the Trust may be properly applied, and pending such application may be invested in such securities as are prescribed by the Enactment for the investment of the share capital of the Trust.

The Seal.

46. The Committee shall provide for the safe custody of the seal of the Trust and the seal shall not be affixed to any instrument except in the presence of one member of the Committee and of the Secretary or such other person as the Committee may appoint for

the purpose ; and such member of the Committee and Secretary or other person as aforesaid shall sign every instrument to which the seal of the Trust is so affixed in their presence.

Interest.

47. The Committee may without reference to the members of the Trust in general meeting pay to them interest at the rate prescribed, and on the days appointed, by the Enactment.

48. No interest shall be paid otherwise than out of profits or out of such sum as the Chief Secretary to Government may cause to be advanced to the Trust for the purpose.

49. No interest shall bear interest against the Trust.

50. Subject to the rights of persons, if any, entitled to shares with special rights as to interest, all interest shall be declared and paid according to the amounts paid on the shares.

51. A transfer of shares shall not pass the right to any interest payable thereon before the registration of the transfer.

52. The Committee may retain the interest payable upon shares in respect of which any person is under the transmission clause (clause 18) entitled to become a member, or which any person under that clause is entitled to transfer, until such person shall become a member in respect thereof or shall duly transfer the same.

53. Any one of several persons who are registered as the joint holders of any share may give effectual receipts for all interest and payments on account of interest in respect of such share.

54. Unless otherwise directed any interest may be paid by cheque or warrant sent through the post to the registered address of the member entitled, or, in the case of joint holders, to the registered address of that one whose name stands first on the register in respect of the joint holding ; and every cheque or warrant so sent shall be made payable to the order of the person to whom it is sent.

Accounts.

55. The Committee shall cause true accounts to be kept of the sums of money received and expended by the Trust, and the matters in respect of which such receipt and expenditure takes place, and of the assets, credits, and liabilities of the Trust.

56. The books of account shall be kept at the office of the Trust established under the provisions of Section 13 of the Enactment.

57. The Committee shall from time to time determine whether and to what extent, and at what times and places, and under what conditions or regulations, the accounts and books of the Trust, or any of them, shall be open to the inspection of the members ; and no member not being a member of the Committee shall have any right of inspecting any account or book or document of the Trust, except as authorized by the Committee or by a resolution of the Trust in general meeting or by the Court.

58. At the second ordinary meeting and at each subsequent ordinary meeting the Committee shall lay before the Trust a profit and loss account and a balance-sheet containing a summary of the property and liabilities of the Trust made up to the 31st day of December of the preceding year.

59. Every such balance-sheet shall be accompanied by a report of the Committee as to the state and condition of the Trust, and as to the amount of interest or bonus which it has declared, and the amount (if any) which it proposes to carry to the reserve fund; and the account, report, and balance-sheet shall be signed by two members of the Committee and countersigned by the Secretary.

60. A printed copy of such account, balance-sheet, and report shall, not less than fourteen days before the date of the ordinary meeting, be published in the manner prescribed by By-law 22 for the publication of notices to members.

Audit.

61. Once at least in every year commencing from the first day of January, 1917, the accounts of the Trust shall be examined, and the correctness of the profit and loss account and balance-sheet ascertained by one or more auditor or auditors.

62. The Trust at each ordinary general meeting shall appoint an auditor or auditors to hold office until the next ordinary general meeting and shall fix the remuneration to be paid to him or them. The first auditor or auditors shall be appointed by the Committee which shall fix the remuneration to be paid to him or them.

63. If an appointment of an auditor is not made at an ordinary general meeting or if any vacancy occurs in the office of auditor, the Chief Secretary to Government may, on the application of any member of the Trust, appoint an auditor of the Trust for the current year and fix the remuneration to be paid to him by the Trust for his services.

Winding-up.

64. On the winding-up of the Trust the Committee may declare a date upon which the share capital shall be refunded to members. The interest payable upon the share capital shall cease to accrue as from such date.

Protection of Officers.

65. Every Chairman, member of the Committee, Secretary, and other officer or servant of the Trust shall be indemnified by the Trust against, and it shall be the duty of the Committee out of the funds of the Trust to pay, all costs, losses, and expenses (including travelling expenses) which any such officer or servant may incur or become liable to by reason of any contract entered into, or act or thing done by him as such officer or servant, or in any way in the discharge of his duties; and the amount for which such indemnity is provided shall immediately attach as a lien on the property of the Trust and have priority as between the members over all other claims.

66. No Chairman, member of the Committee, Secretary, or other officer or servant of the Trust shall be liable for acts, receipts, neglects, or defaults of any member, officer, or servant or for joining in any receipt or other act for conformity or for any loss or expense happening to the Trust through the insufficiency or deficiency of title to any property acquired by order of the Committee for or on behalf of the Trust or for the insufficiency or deficiency of any security in or upon which any of the moneys of the Trust shall be invested, or for any loss or damage arising from the bankruptcy, insolvency, or tortious act of any person with whom any moneys, securities, or effects shall be deposited or for any loss occasioned by any error of judgment or oversight on his part or for any other loss, damage, or misfortune whatever which shall happen in the execution of the duties of his office or in relation thereto, unless the same happen through his own dishonesty.

ENACTMENT NO. 13 OF 1916.

As amended by Fed. E. 12 of 1917, 17 of 1918, 4 of 1919, and 21 of 1920.

An Enactment to repeal and re-enact "The Sanitary Boards Enactments, 1907," being the Law with regard to Sanitary Boards.

ARTHUR YOUNG,
President of the Federal Council.

[27th November, 1916.
22nd December, 1916.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as "The Sanitary Boards Enactment, 1916," and shall come into force upon the publication thereof in the *Gazette*.

(ii) Upon the coming into force of this Enactment the Enactments mentioned in the first schedule shall be repealed.

(iii) All by-laws passed, declarations, appointments, and valuations made, rates imposed and exemptions granted under any Enactment hereby repealed which were in force immediately prior to the commencement of this Enactment shall, so far as they are consistent with the provisions of this Enactment and of any by-laws passed hereunder, be deemed to have been passed, made, imposed, and granted under this Enactment.

(iv) Nothing in this Enactment contained shall affect the provisions of any Enactment in force for the time being for preventing the introduction and spread of infectious and contagious diseases or the liability of any person to any punishment or penalty to which he may be liable under any Enactment other than this Enactment, but so that no person shall be twice punished for the same offence.

Interpretation.

2. In this Enactment and in any by-laws passed hereunder unless there be something repugnant in the subject or context—

"Owner" means the person for the time being receiving the rent of the land or premises in connection with which the word is used whether on his own account or as agent or trustee for any other person, or who would so receive the same if such land or premises were let to a tenant ; and in any case in which such person cannot be found or makes default shall include also the occupier if any of such land or premises.

"Sanitary Board area" means an area subject to the control of a Sanitary Board in respect of the matters provided for by this Enactment.

"Street" includes every road, square, footway, passage, or waterway (whether a thoroughfare or not) over which the public has a right of way and also the way over any public bridge.

"Public street" means a street repairable out of Government funds.

"Footway" includes five-foot ways and verandahs at the sides of streets.

"Town limits" means the limits of a town as defined from time to time under the provisions of any law regulating the establishment of towns.

"Horse" includes pony.

"Dairy" includes any cowshed, milk store, milk shop, or other place from which milk is supplied or in which milk is drawn or kept for the purposes of sale.

"Premises" includes messuages, buildings, lands, easements, and hereditaments of any tenure, whether open or enclosed, whether built on or not, whether public or private, and whether maintained or not under statutory authority.

"Chairman" means the officer for the time being lawfully performing the duties of the office of Chairman of the Sanitary Board, and includes a Deputy Chairman.

"Health Officer" means the officer for the time being performing the duties of Health Officer to the Sanitary Board, and includes Assistant Health Officer.

"House" includes dwelling-house, warehouse, office, counting-house and shop, also schools and any other buildings in which persons are employed.

"Building" includes any house, hut, shed, or roofed enclosure whether used for the purpose of a human habitation or otherwise, and also any wall, gate, post, pillar, paling, frame, hoarding, slip, dock, wharf, pier, jetty, landing-stage, or bridge.

"Nuisance" means any act, omission, or thing occasioning or likely to occasion injury, annoyance, offence, harm, danger, or damage to the sense of sight, smell, or hearing, or which is or is likely to be injurious or dangerous to health or property.

A person is said to "reside" in any dwelling in which he sometimes uses a sleeping apartment, although he does not use it uninterruptedly or has elsewhere a dwelling where he has and sometimes uses another such apartment. A person does not cease to "reside" in a dwelling where he has such an apartment merely because he is absent from it if there is the liberty of returning at any time and no abandonment of the intention to return at pleasure.

"Market" means any place (other than a shop) ordinarily used for the sale of animals or of fish, meat, fruit, vegetables, or other perishable articles of food for human consumption.

"Public market" means a market which has been declared a market, or which may hereafter be declared a market, under this Enactment.

"Arcade" includes verandah.

"Occupier" means the person in occupation of the premises in respect of which the word is used, or having the charge, management, or control thereof either on his own account or as agent of another person, but does not include a lodger.

"Sky-sign" means any erection consisting of a frame, hoarding, board, bar, pillar, post, wire, or any combination of such things, or any erection of a like nature, displayed for the purposes of trade or professional advertisement in such a position as to be conspicuously visible against the sky above the general level of the roofs of surrounding buildings from any street or public place.

"Motor car" has the meaning assigned to that expression in "The Traction Engines and Motor Cars Enactment, 1912."

"*Common lodging-house*" *includes*— E. 4 of 1919.

(*a*) *any house which, or part of which, is occupied as lodgings at a rate of payment not exceeding twenty cents per night for each person, whether the same be payable nightly or otherwise, or in which the same class of accommodation is furnished by an employer of workmen to the workmen employed by him or is paid for by subscription to a common fund;*

(*b*) *Any house or part of a house (not being a public hospital) used for the reception of sick or dying persons or for the lying-in of women.*

(*c*) *any house where ten or more jinrikisha-pullers are lodged as tenants or sub-tenants.*

Appointment of Sanitary Boards.

3. (i) The Resident of a State may from time to time, with the approval of the Chief Secretary to Government, by notification in the *Gazette* declare any area within such State to be a Sanitary Board area for the purposes of this Enactment.

(ii) The Resident of a State may from time to time by notification in the *Gazette* appoint Sanitary Boards consisting of such public servants and other persons as he may nominate to exercise control within the area mentioned in such appointment over all matters in respect of which power is given to them by this Enactment and may appoint any member of a Sanitary Board to be the Chairman thereof. Every such appointment shall cease and determine at the expiration of the year in respect of which the same is made.

(iii) The Resident of a State may also, with the approval of the Chief Secretary to Government, appoint Secretaries, Health Officers, Inspectors, and such other officers as may be necessary for the purposes of this Enactment; the appointment of every Secretary, Health Officer, and Inspector shall be notified in the *Gazette*.

(iv) The boundaries of any Sanitary Board area may be declared to be coincident with any town limits or may be separately defined.

(v) Any declaration or appointment made under this section may from time to time in like manner be added to, varied, or revoked.

Duties of Sanitary Boards.

4. The duties of a Sanitary Board shall be to take all lawful measures for the following purposes within the area subject to its control :—

E. 17 of 1918.

(*a*) The regulation and control of buildings and building operations, *including such alteration of existing buildings as may, in the opinion of the Sanitary Board, be necessary or expedient for reasons of health and, in the case of buildings erected in accordance with plans approved by the Sanitary Board, the payment, with the approval of the Resident, of the cost of any such alteration in whole or in part from public funds ; provided that nothing in Section* 48 *shall apply to any such payment ;*

(*b*) The laying out and maintenance of reserves for recreation and other purposes ; the enclosure and care of unoccupied premises ; the planting and preservation of trees and shrubs ; the laying out, cleaning, watering, lighting, and control of streets, canals, and bridges ; the removal of undue projections ; the numbering of houses ; the naming of streets subject to the approval of the Resident of the State ; and in places within the jurisdiction of a Sanitary Board to which a Sanitary Board Engineer has been appointed the making, repairing, and draining of streets, canals, and bridges.

(*c*) The control and supervision of :—

(1) Drains, latrines, cesspools, and dust-bins ;

(2) Wells and water-tanks ;

(3) Stables and cattle-sheds and places for keeping sheep, goats, swine, and poultry, including, if the Sanitary Board shall think necessary, power to make it compulsory on all owners of hackney carriages to use only public stables for their horses and carriages upon such terms and subject to such charges as may from time to time be prescribed ;

(4) The sale of fresh provisions and the licensing of persons to hawk food-stuffs ;

(*d*) The establishment and regulation of markets and slaughter-houses and the fixing of the fees to be charged for the use of the same, including, if the Sanitary Board shall think necessary, the grant to particular persons of the exclusive right to use any slaughter houses, or of the exclusive right to provide or slaughter any particular description of beast for human food, and the prohibition of the sale within a certain radius from a market of articles of any kind sold in such market ;

(*e*) The regulation by registration, licensing, or otherwise of bakeries, dairies, laundries, and street stalls ; the seizure and disposal of unwholesome fish, flesh, or other provisions ;

(*f*) The regulation, inspection, and licensing of common lodging-houses, eating-houses, jinrikisha stables, theatres, native

E. 4 of 1919.

inns, and other places of public resort, *and premises where*

jinrikisha-pullers reside, with the view of enforcing the observance of ordinary sanitary regulations in respect of lighting, ventilation, whitewashing, drainage, and overcrowding therein ;

(*g*) The establishment and regulation of public bathing places, including power to charge fees for the use of or to lease the same ;

(*h*) The removal and disposal of refuse and night-soil, including, if the Sanitary Board shall think necessary, the publication of rules making it compulsory on all persons who may require night-soil buckets to buy such buckets from the Sanitary Board at such price as the Sanitary Board may fix ;

(*i*) The prevention and abatement of nuisances and the regulation of dangerous, unhealthy, or offensive trades or occupations ; *and of places favourable to the breeding of mosquitos.* E. 21 of 1920.

(*j*) The regulation by registration, licensing or otherwise of places, whether covered or open, kept or used for housing or storing motor cars intended for sale or hire or for conveying persons for hire ;

(*k*) The prevention and removal of obstructions in the streets and in verandahs or footways ;

(*l*) The repair or removal of ruinous or dangerous houses, huts, or outbuildings, and the removal of occupants therefrom :

(*m*) *The examination of the bodies of dead persons and the certification of the cause of death in cases where the cause of death has not been certified by a duly qualified medical practitioner ;* E. 12 of 1917.

(*n*) *The prevention and abatement of malaria, including treatment of persons, removal of persons, and action in respect of buildings, land, and other property ;*

(*o*) *The control and regulation, by licensing or otherwise, and, in the discretion of the Sanitary Board, the prohibition of the use, erection, and display of placards, posters, sign-boards, sky-signs, and other devices ;*

(*p*) *The regulation and control of traffic in the streets, whether of vehicles, traction engines, animals, foot-passengers, or otherwise ;*

(*q*) All other matters, whether similar or not to those above-mentioned, connected with the conservancy and the improvement of the area subject to its control.

5. For the various purposes described in Section 4 and for the conduct of its own business a Sanitary Board shall have power to pass by-laws not inconsistent with the provisions of this Enactment or of any other Enactment for the time being in force and to declare whether such by-laws shall apply to the whole area subject to its control or to some specified part or parts thereof, and to prescribe penalties for breach thereof not exceeding the penalties prescribed by Section 7 ; and every Sanitary Board is hereby required to pass such by-laws, either in addition to or in substitution for by-laws already existing, as may from time to time be prescribed

Power to pass by-laws.

by the Resident of the State with the approval of the Chief Secretary to Government; and such by-laws may provide for the payment of reasonable fees for such registration, licenses, or other matters as may be required for the purposes of this Enactment.

Confirmation and publication of by-laws.

6. No by-law passed under this Enactment in any State and no resolution rescinding or varying any such by-law shall have effect unless and until it has been confirmed by the Resident of such State with the approval of the Chief Secretary to Government and published in the *Gazette*.

Penalty for breach of by-laws.

7. If any person is guilty of the contravention of any such by-law for the breach of which no penalty is otherwise expressly provided, or of infringing any exclusive right granted under Section 4 (*d*), he shall be liable upon conviction to a fine not exceeding one hundred dollars, or in the case of a continuing offence to a fine not exceeding ten dollars for every day during which such offence is continued.

Enquiries into fires.

8. (i) Where any fire occurs within a Sanitary Board area whereby damage or loss is occasioned to any dwelling-house or other building, the Chairman may, if he thinks fit, and shall if requested thereto in writing by two or more rate-payers, institute an enquiry into the cause of such fire and the circumstances attending the same.

(ii) For the purpose of such enquiry the Chairman shall have and may exercise all the statutory and other powers which shall for the time being be vested in and exercisable by a Magistrate of the First Class for summoning and enforcing the attendance of witnesses, for administering oaths or affirmations to such witnesses, and for compelling such witnesses to answer all reasonable and proper questions relative to the matters which are the subject of such enquiry.

(iii) The Chairman shall within seven days from the conclusion of such enquiry transmit to the Resident of the State the depositions taken by him together with his finding as to the cause of the fire.

Minutes to be submitted to Resident.

9. Full minutes of the proceedings at all meetings of every Sanitary Board shall be submitted for the information of the Resident of the State at the earliest opportunity after the close of the meeting, and the Resident of the State shall have power to annul the whole or any part thereof.

Public servants.

10. All members and servants of a Sanitary Board shall be deemed to be public servants within the meaning of the Penal Code.

Powers of Sanitary Board where default made.

11. (i) When any by-law passed under this Enactment or any notice issued to enforce the provisions of this Enactment or of any such by-law requires any act to be done or refrained from or any work to be executed by the owner or occupier of any premises and default is made in complying with the provisions of such by-law or notice, the Sanitary Board may cause such act to be done or such work to be executed and may pull down any work executed in contravention of any such by-law or notice.

(ii) All expenses incurred by the Sanitary Board in carrying out the provisions of this section may be recovered in the manner

provided by this Enactment for the recovery of unpaid rates, or the Sanitary Board may at its option recover the same from the owner or occupier by action in a court of law.

Power to levy rates.

12. An annual rate for the general purposes of this Enactment, including also the purposes of public lighting, public water supply, and protection from fire, may be imposed upon all lands and upon all houses and buildings within any Sanitary Board area not exceeding fifteen per centum of their annual value. Such rate shall be fixed from time to time by the Resident of the State after consultation with the Sanitary Board and shall be payable by half-yearly instalments in advance without demand by the owners of such lands, houses, or buildings in the months of January and July in each year.

Further rate on land which is not built on.

13. (i) In addition to the rate referred to in Section 12, a further annual rate for the said purposes may be imposed upon all holdings and portions of holdings which being held under grant or certificate of title or Government lease the terms, express or implied, whereof are not inconsistent with a right to build a house or houses covering one-half of the area of such holdings or portions of holdings and being within a distance of 100 feet of any public street have no house erected thereon ; provided that

(*a*) in the case of a holding whereof part only is within a distance of 100 feet of a public street the said further rate shall not be imposed on any part of such holding which is distant more than 100 feet from a public street ; and

(*b*) in the case of a holding whereof a part only has no house erected thereon the said further rate shall not be imposed upon such part unless the area of such part exceeds one-half of the area included in the holding and within a distance of 100 feet of a public street.

(ii) The annual rate to be imposed under this section shall be fixed from time to time by the Resident of the State after consultation with the Sanitary Board ; such rate shall not exceed fifteen per centum of the annual value of the holdings and portions of holdings whereon it is imposed and shall be payable in manner prescribed for payment of the rate referred to in Section 12.

(iii) No rate imposed under this section shall be payable in respect of any period prior to the 1st day of January, 1916, and no such rate shall be payable in respect of any holding or portion of a holding until the expiration of three years from the date of the grant or lease under or pursuant to which the same is held nor in respect of any holding or portion of a holding which shall have been included within a Sanitary Board area for a period of less than three consecutive years.

(iv) In this section "holding" means land comprised in one grant or certificate of title or Government lease.

(v) This section shall have effect only within such Sanitary Board areas or portions of Sanitary Board areas as may be declared from time to time by the Resident of the State, with the approval of

the Chief Secretary to Government, to be subject to the provisions thereof.

Drainage rate. E. 12 of 1917.

13A. (i) *In addition to the draining of streets, canals, and bridges and the control and supervision of drains in Section* 4 *referred to, a Sanitary Board may install and maintain within the area subject to its control a system or systems of drainage for the removal of superfluous water from any lands within the said area.*

(ii) *To meet the cost of such instalment and maintenance a further annual rate or further annual rates may, in addition to the rates referred to in Sections* 12 *and* 13, *be imposed upon all lands and upon all houses and buildings within the whole of the Sanitary Board area or within such part or parts thereof as may be appointed under sub-section* (iii).

(iii) *Every annual rate to be imposed under this section shall be fixed from time to time by the Resident of the State after consultation with the Sanitary Board, and where any such rate is not to be imposed on the whole of a Sanitary Board area the limits within which it is to be imposed shall be fixed in the manner in this sub-section provided for the fixing of rates.*

(iv) *A rate imposed under this section shall not exceed five per centum of the annual value of the land, houses, and buildings whereon it is imposed and shall be payable in the manner prescribed for payment of the rate referred to in Section* 12.

Resident may exempt certain property.

14. Houses and buildings used exclusively as places for religious worship, all public burial and burning grounds, all buildings used exclusively for public schools or for charitable purposes, and all property belonging to or rented by the Ruler of the State or the Government may be exempted by direction of the Resident of the State wherein the same are situated from payment of any rate.

Board may exempt certain property.

15. The Board may exempt from payment of any rate any house, building, or land the annual value whereof is less than ten dollars if the same be the sole rateable property of the owner, or any house or hut which shall be occupied rent free by labourers employed at any plantation or mine.

Remission of rate when a house is not occupied.

16. In cases of property assessed as described in Section 18 where any house or building shall have been vacant for thirty consecutive days during any year the Board shall remit so much of the rate for that year as may be proportionate to the number of days during which the said house or building may have remained unoccupied : provided that the owner of such house or building or his agent shall have given notice in writing of the vacancy thereof to the Board, and that the amount of rate to be remitted shall be calculated from the date of the delivery of such notice.

Assessment upon annual value of property.

17. The rate or rates imposed upon houses, buildings, and lands according to the annual value thereof in any Sanitary Board area shall be assessed in the manner hereinafter provided.

Annual value of premises wholly built upon how to be ascertained.

18. In cases in which the whole area comprised under one document of title is built upon exclusive of such open spaces as are required for sanitary purposes the estimated gross annual rent at

which such lands together with the houses or buildings thereon might reasonably be expected to let from year to year shall for the purposes of the rate be held and deemed to be the annual value of such lands together with the houses or buildings thereon. The annual value of premises so estimated shall not include the value of any machinery contained therein.

Annual value of premises not wholly built upon how to be ascertained.

19. In cases of lands which are vacant or unoccupied or only partially built upon the Board may in its discretion assess the annual value thereof as described in Section 18, or one-tenth of the selling value of such property at the time when the assessment is made may be held and deemed to be the annual value of such property for the purposes of the rate. For the purpose of ascertaining the selling value of such property all such facts shall be taken into consideration as may in the opinion of the Board be deemed to be material evidence as to the current market value of such property.

Record of valuation.

20. For the purpose of such assessment the Board shall from year to year cause a valuation to be made of all houses and buildings. Such valuation shall be entered in a book to be kept at the office of the Board, wherein also shall be written in distinct columns the name of the owner of the property, the name of the occupier, a designation of the property either by name or number sufficient to identify the same, the name of the street or locality in which such property is situated, and the amount of the rate assessed thereon.

Designation of owner if name unknown.

21. When the name of the owner or occupier is not known, it shall be sufficient to designate him in the said book, and also in any notice or other proceeding under this Enactment, as the "owner" or "occupier" of the property on which the rate is assessed, without further description.

Returns may be required for purposes of valuation.

22. (i) In order to enable the Board to assess the annual value of any houses, lands, tenements, or buildings liable to assessment the Chairman may require the owner or occupier thereof to furnish returns of the rent thereof and to give all such information as may be necessary for the preparation of the assessment list or otherwise for the purpose of such assessment, and for the like purpose the Chairman or any person appointed in writing by him for that purpose may at any time between sunrise and sunset enter and inspect and if necessary survey the same. Provided that no entry shall be made under this section into any dwelling-house in actual occupation, unless with the consent of the occupier, without twenty-four hours' previous notice in writing to such occupier specifying the hour as near as may be of such intended entry.

Power to enter houses, etc.

Penalties for not furnishing returns, etc.

(ii) Whoever refuses or fails to furnish such return or to give such information as aforesaid for the space of one week from the day on which he shall have been required so to do, and whoever knowingly makes a false or incorrect return or gives false or incorrect information, and whoever hinders, obstructs, or prevents the Chairman or any person appointed by him as aforesaid from entering, inspecting, or surveying any such houses, lands, buildings, or tenements, shall be liable to a fine not exceeding fifty dollars.

Public notice of valuation.

23. When the valuation has been completed the Board shall notify in the *Gazette* and by placards in Malay, English, Chinese, and Tamil posted in conspicuous places throughout the town the place where the record of valuation may be inspected; and the person in whose custody such record may be shall permit every person appearing to be the owner or occupier of any property included in the assessment or the agent of such owner or occupier to inspect the same during office hours and to make extracts therefrom without payment of any fee.

Notice of consideration of complaints.

24. The Board shall give public notice of a day, not being less than six weeks from the date of publication of such notice, when it will proceed to consider complaints against such valuation and assessment, and in all cases in which any property is for the first time assessed or the assessment thereof is increased the Board shall also give notice thereof to the owner or occupier of the property. All complaints shall be made personally or by agent or in writing at least fourteen days before the day fixed in the notice and all complaints so made shall be enquired into by the Board and such amendments of the valuation shall thereupon be made as the Board may deem just.

Adoption of assessment.

25. After the complaints have been enquired into and the revision of the valuation and assessment has been completed the amendments made shall be authenticated by the signatures of two members of the Board, who shall at the same time certify that no valid complaint has been made against the valuation and assessment except in the cases in which amendments have been made; and, subject to such amendments as may thereafter be duly made, the rate so assessed shall be deemed to be the rate for the whole year for which the assessment is made, and such year shall commence on the first day of January.

Further amendments of assessment list.

26. (i) Where owing to mistake, oversight, or fraud the name of any person or any property which ought to have been inserted in or omitted from the assessment list has been omitted from or inserted in such list or any property has been insufficiently assessed or where any building newly built or rebuilt becomes liable to assessment after the list has been compiled, the Board may at any time amend such list accordingly; provided that notice is given to all persons interested in the amendment of a time, not less than one month from the date of the service of such notice, at which the amendment is to be made. Provided that in the case of any building newly built or rebuilt only a proportional part of the assessment shall be charged from the date of the completion of such building.

(ii) Any person interested in any such amendnent may tender his objection to the Board in writing before the time fixed in the notice, or orally or in writing at that time, and shall be allowed an opportunity of being heard in support of the same in person or by authorized agent, as he thinks fit.

New assessment not compulsory each year.

27. It shall not be necessary to prepare a new record every year, but the Board may adopt the valuation and assessment for the preceding year with such alterations as may in particular cases be

deemed necessary as the valuation and assessment for the year following; provided that public notice of such valuation and assessment shall be given in the manner prescribed by Section 23, and that the provisions of such section and of the three following sections shall be applicable to such valuation and assessment.

Appeals against Board's assessment.

28. Any person who, having made a complaint or objection in the manner prescribed by Section 24 against any rate assessed under the provisions of this Enactment, is dissatisfied with the decision of the Board thereon may appeal to the Court of a Judicial Commissioner; provided that with the presentation of the petition of appeal there shall be paid into Court the amount of the rate appealed against.

Time allowed for appeal.

29. Every such appeal shall be commenced within thirty days of the date of the certificate of the Board under Section 25, or in case of any subsequent amendment under the provisions of Section 26 within thirty days of the receipt by the person aggrieved of notice of such amendment.

Finality of appeal.

30. The decision of the Court of a Judicial Commissioner upon any appeal under Section 28 shall be final and conclusive.

Rates to be a first charge on property.

31. Subject to the provisions of "The Land Enactment, 1911," any rate duly imposed under this Enactment shall be a first charge on the property in respect of which it is imposed and shall be recoverable in the manner hereinafter provided.

Place of payment.

32. All payments shall be made at the office of the Board or at such other place as the Board may appoint, and counterfoil receipts shall be issued signed by the Secretary or other officer of the Board duly authorized thereto.

Procedure if payment be not made.

33. If any rate or fee be not paid within the prescribed time, the Board may cause to be served upon the person liable therefor a notice substantially in the Form A in the second schedule, signed by the Secretary or other officer of the Board duly authorized in that behalf, requiring such person to pay the same together with a fee of fifty cents for the cost of the notice within fifteen days from the date of the service of such notice; and if within fifteen days from the date of service of such notice payment be not made or sufficient cause be not shewn to the satisfaction of the Board why payment should not be made, it shall be lawful for a Magistrate on information laid by the Secretary of the Board or other officer of the Board duly authorized in that behalf to issue a warrant substantially in the form B in the second schedule for the recovery of the amount due with all costs by attachment and sale of the movable property of the person liable to the amount of the said rate or fee, together with the expenses of such attachment and sale, and if the person liable be the occupier of any premises in respect of which the said rate or fee is due by attachment and sale also of any movable property found on such premises.

Inventory of property attached.

34. (i) The officer charged with the execution of such warrant shall make an inventory of the property attached thereunder and shall at the same time give notice in writing substantially in the form C in the second schedule to the person in possession thereof

at the time of the attachment that such property will be sold as therein mentioned.

(ii) It shall be lawful for such officer to break open in the daytime any house or building for the purpose of effecting such attachment.

Sales under warrant: application of proceeds.

35. Unless the amount due with costs be paid within seven days from the date of the attachment or the operation of the warrant be suspended, the property attached or such part thereof as may be necessary shall be sold by public auction and the proceeds shall be applied in satisfaction of the said amount and costs, and the surplus if any shall be paid to the person in possession of the property at the time of the attachment.

Property may be attached wherever found.

36. The movable property of any person from whom any rate or fee is due may be attached in manner aforesaid wherever the same may be found for default in payment of the money due from such person.

Attachment and sale of immovable property.

37. (i) If the amount due cannot be recovered in the manner aforesaid, it shall be lawful for the Court of a Judicial Commissioner on the application of the Secretary of the Board or other officer of the Board duly authorized in that behalf to issue a warrant substantially in the form D in the second schedule for the attachment and sale of the immovable property in respect of which such amount has accrued due.

(ii) The provisions of Section 68 of "The Registration of Titles Enactment, 1911," shall apply in the case of any warrant issued under this section in the same way as in the case of a warrant of execution of a decree.

(iii) The attachment shall be made by an order under the hand of the officer named in the warrant and expressed to be made pursuant to such warrant, prohibiting the person liable for the said amount from transferring or charging the property in any way and all persons from receiving the same from him by purchase, gift, or otherwise. A copy of the order shall be served upon the person liable as aforesaid, and a copy shall also be fixed up in a conspicuous part of the property attached.

(iv) If at the expiration of three months from the date of such attachment such amount has not been paid or the operation of the warrant suspended, the property attached may be sold in accordance with the terms of the warrant.

Application of proceeds.

38. The proceeds of such sale shall be applied in the first place in satisfaction of the amount due and of all costs including fees for preparation and registration of title and for registration of transfer of the property to the purchaser, and in the event of their being any surplus remaining the Board shall, if it is satisfied as to the right of any person claiming such surplus, pay the amount to such person, and if it is not so satisfied shall place the amount on deposit in the Treasury to be held in trust for the person who may ultimately succeed in establishing his claim thereto.

Purchaser's title.

39. To the purchaser at a sale under Section 37 there shall be issued on payment of his purchase money to the Board an order in

writing from the Judicial Commissioner's Court entitling him to have the title to the property or interest so purchased by him duly registered in his name without the payment of any fee therefor, and such registration shall have the effect of transferring to and vesting in him such property or interest free from all encumbrances created over it and from all subordinate interests derived from it except such as are expressly reserved at the time of the sale.

Application to Court against attachment.

40. If any person whose movable or immovable property has been attached under the provisions of this Enactment disputes the propriety of the attachment, he may apply to the Court whence the warrant of attachment issued for an order to stay the proceedings, and the Court after making such enquiry as may be necessary shall make such order in the premises as may be just.

Recovery from owner of assessment paid by occupier.

41. If the sum due from the owner of any house or building on account of any rate or fee is paid by the occupier thereof, such occupier may in the absence of any agreement to the contrary with the owner deduct from the next and following payments of his rent the amount which may have been so paid by him.

Occupier when not liable.

42. No rate or fee which has remained due from the owner of any house or building for more than one year shall be recoverable from the occupier thereof not being the owner.

Alternative procedure.

43. Instead of proceeding by attachment and sale, or in case of failure to realize by attachment and sale the whole or any part of the sum due in respect of any rate or fee, the Board may sue the person liable to pay the same in any Court of competent jurisdiction.

Service of notices and other documents.

44. Every notice, order, or document required or authorized by this Enactment or by any by-law passed hereunder to be served on any person may be served personally upon the person to whom it is addressed or be left at his usual place of abode with some adult member or servant of his family, or if it cannot with the exercise of due diligence be so served may be affixed in some conspicuous part of such place of abode, and shall thereby be deemed to be duly served; provided that if the place of abode of the owner or occupier of any land, house, or building in respect of which such notice, order, or document is required to be served be unknown, or if the owner or occupier of such land, house, or building be not resident within the Sanitary Board area, every such notice, order, or document shall be deemed to be duly served if affixed on some conspicuous part of such land, house, or building.

Irregular proceedings.

45. No attachment or sale under this Enactment shall be deemed unlawful nor shall any person making the same be deemed a trespasser on account of any defect or want of form in any notice, warrant of attachment and sale, inventory, or other proceeding relating thereto nor shall any person be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may seek relief for the special damage in any Court of competent jurisdiction.

Notice to be given of the transfer of rateable property.

46. (i) Whenever any rateable property within a Sanitary Board area is sold or transferred, it shall be the duty of the purchaser or transferee within three months after such sale or transfer to give notice thereof to the Board in writing.

(ii) Whenever the owner of any rateable property within a Sanitary Board area dies, it shall be the duty of the person becoming the owner thereof by succession or otherwise to give notice thereof in writing to the Board within one year after the death of the deceased.

Board may require production of deeds.

(iii) On receipt of any such notice the Board may require the production of the instrument of sale or transfer if any.

Liability for rates of transferor who has not given notice.

(iv) Every person who sells or transfers any rateable property within a Sanitary Board area shall continue liable for the payment of all rates payable in respect of such property and for the performance of all other obligations imposed by this Enactment upon the owner of such property which become payable or are to be performed at any time before notice of such transfer has been given or until the sale or transfer has been recorded in the books of the Board. Nothing herein contained shall affect the liability of the purchaser or transferee to pay the rates in respect of such property or to perform such obligation as aforesaid or affect the right of the Board to recover such rate or to enforce such obligation under this Enactment.

Notice to be given of new buildings, etc.

(v) When any new building is erected or when any building is rebuilt or enlarged or when any building which has been vacant is re-occupied, the owner of such building shall within fifteen days give notice thereof in writing to the Board.

(vi) The said period of fifteen days shall be reckoned from the date of the completion or of the occupation, whichever first occurs, of the building which has been newly erected or re-built or of the enlargement, as the case may be, and in the case of a building which has been vacant from the date of the re-occupation thereof.

Notice to be given of demolitions and removals of buildings.

(vii) When any building or portion of a building which is liable to the payment of rates is demolished or removed otherwise than by the order of the Board, the owner shall give notice thereof in writing to the Board. Until such notice is given the owner shall continue liable to pay rates in respect of such building or portion of a building as if the same had not been demolished or removed.

Penalty for failing to give notice.

(viii) Every person failing to give any notice required by this section shall be liable to a fine not exceeding ten dollars.

Power to enter upon lands for the purposes of this Enactment.

47. (i) The Board shall for the purposes of this Enactment have power by itself or its officers, servants, workmen, or contractors to enter at all reasonable hours in the daytime into and upon any building or land, as well for the purpose of making any survey or inspection as for the purpose of executing any work authorized by this Enactment to be executed by it, without being liable to any legal proceedings or molestation whatsoever on account of such entry or of anything done in any part of such building or land in pursuance of this Enactment. Provided that except when herein otherwise provided the Board or its officers shall not enter into any dwelling-house in actual occupation, unless with the consent of the occupier thereof, without six hours' previous notice to such occupier.

Proviso.

(ii) The Resident of a State may declare that any class of premises for the control, supervision, *regulation, or inspection* of which by-laws

F. 4 of 1919.

may be passed under Section 5 are liable to night inspection, and thereupon the Chairman or Health Officer may at any time of the day or night and without notice by himself or by any Sanitary Board officer generally authorized by the Chairman in that behalf in writing enter into and inspect any premises of the class specified in the declaration.

Compensation, damages, and costs to be determined by Magistrate.

48. (i) Except as herein otherwise provided, in all cases when compensation, damages, costs, or expenses are by this Enactment or any by-laws passed hereunder directed to be paid the amount and if necessary the apportionment of the same shall in case of dispute be summarily ascertained and determined by a Magistrate, or if the compensation claimed amount to one thousand dollars then by the Court of a Judicial Commissioner.

(ii) If the amount of compensation, damages, costs, or expenses be not paid by the party liable to pay the same within seven days after demand, such amount may be reported to such Magistrate or Court and recovered in the same way as if it were a fine imposed by such Magistrate or Court.

Revocation and cancellation of licenses.

49. (i) Every license issued under any by-law passed under this Enactment shall be revocable at the discretion of the Sanitary Board by which the same was issued without compensation at the expiration of one month's notice in writing served on the holder thereof, and every such license shall be liable to immediate cancellation by the Board without notice and without compensation on any failure of the holder thereof or his servants or agents to observe and comply with any by-law or condition to which such license may from time to time be subject.

(ii) It shall be lawful for the Sanitary Board at its discretion to refuse to issue any licenses.

Disposal of revenue and objects of expenditure.

50. All moneys received by a Sanitary Board by virtue of this or any other Enactment shall be paid into the District Treasury for the credit of the public revenue ; and all moneys entrusted to a Sanitary Board by the Government for expenditure shall be applied by the Board for the purposes described in Section 4 and in the execution of any other measures necessary to promote the health or convenience of the public and generally for the purposes of this Enactment as may be deemed expedient by the Board and subject in all cases to the control and direction of the Resident of the State.

Accounts.

51. Proper statements of all receipts and disbursements on account of any Sanitary Board shall be kept and periodically rendered in such form and at such times as the Resident of the State may direct.

Application of Enactment to areas not being Sanitary Board areas.
E. 12 of 1917.

51A. (i) *The Resident of a State, with the approval of the Chief Secretary to Government, may from time to time by notification in the* Gazette *apply, with such modifications as to him shall seem fit, any of the provisions of this Enactment or any by-law made thereunder to any area situate in the State whereof he is Resident which is not comprised in whole or in part within any Sanitary Board area, and thereupon all such provisions of this Enactment and all such by-laws made thereunder as are specified in such notification shall, subject to such modifications as aforesaid, come into force within the area to which the same have been applied.*

(ii) *Where under sub-section* (i) *any of the provisions of this Enactment or any by-law made thereunder shall have been applied to any area, the Resident of the State, with the approval of the Chief Secretary to Government, may by notification in the* Gazette *appoint any person or persons, either by name or office, to exercise and perform within such area all or any of the powers and duties which are by this Enactment or by any by-law made thereunder conferred or imposed on a Sanitary Board or on any of its officers.*

Protection of persons acting under this Enactment.

52. (i) No action shall be brought against any person for anything done or *bonâ fide* intended to be done in the exercise or supposed exercise of the powers given by this Enactment or by any by-law made thereunder—

(*a*) without giving to such person one month's previous notice in writing of the intended action and of the cause thereof ;

(*b*) after the expiration of three months from the date of the accrual of the cause of action ;

(*c*) after tender of sufficient amends.

(ii) In every action so brought it shall be expressly alleged that the defendant acted either maliciously or negligently and without reasonable or probable cause, and if at the trial the plaintiff shall fail to prove such allegation judgment shall be given for the defendant.

(iii) Though judgment be given for the plaintiff in any such action such plaintiff shall not have costs against the defendant unless the Magistrate or Judicial Commissioner before whom the action is tried shall certify his approbation of the action.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

FEDERAL ENACTMENTS.

No. and year.	Short title.
4 of 1911	The Sanitary Boards Enactments, 1907, Amendment Enactment, 1911
27 of 1914	The Sanitary Boards Enactments, 1907, Amendment Enactment, 1914

STATE ENACTMENTS.

State.	No. and year.	Short title.
Perak ..	10 of 1907	The Sanitary Boards Enactment, 1907
Selangor ..	10 of 1907	Do.
Negri Sembilan	9 of 1907	Do.
Pahang ..	7 of 1907	Do.

THE SECOND SCHEDULE.

FORM A.

NOTICE OF DEMAND.

"The Sanitary Boards Enactment, 1916," Section 33.

Take notice that whereas the sum of $.....which became due on the.....day of....., 191.., from (you) as owner (or occupier) of.....(here describe the property or thing upon which the rate is imposed) for the months of.....191..is still unpaid you are now informed that, unless within fifteen days from the date of the service of this notice the said sum together with the sum of fifty cents for this notice be paid into the office of the said Board at.....or sufficient cause be shewn to the satisfaction of the said Board why such sum should not be paid, the said sum together with the costs of process will be recovered under the powers contained in "The Sanitary Boards Enactment, 1916."

.....

Secretary, Sanitary Board.

Date.....

FORM B.

WARRANT OF ATTACHMENT AND SALE OF MOVABLE PROPERTY.

"The Sanitary Boards Enactment, 1916," Section 33.

To.....(here insert the name of the officer charged with the execution of the warrant).

Whereas it has been made to appear to me that.....of.....has not paid or shewn sufficient cause why he should not pay the sum of $.....due to the Sanitary Board of.....for the rates mentioned in the margin for the months of.....191.., although the period provided by law haselapsed since the service of the notice of demand:

This is to command you to attach the movable property of the said.....(or, as the case may be, any movable property found on the premises referred to) to the amount of the said sum of $..... and such further sum as may be sufficient to defray the charges of attaching, keeping, and selling such property; and if within seven days next after such attachment the said sum shall not be paid together with such further sum as may be sufficient to defray the charges of attaching and keeping such property, to sell the said property, and having paid and deducted out of the proceeds of such sale the said sum of $.....and the charges of attaching and keeping and selling such property to pay the surplus, if any, on demand to the person in whose possession the said property was found.

You are further commanded to return this warrant on or before the.....day of.....191..with an endorsement stating the date and manner of its execution or why it has not been executed.

Given under my hand and seal this.....day of.....191..

.....

(Seal.) *Magistrate.*

Form C.

FORM OF INVENTORY AND NOTICE.

"The Sanitary Boards Enactment, 1916," Section 34.

To.....of.....

(State particulars of goods attached.)

Take notice that I have this day attached the property specified in the above Inventory for the sum of $.....due for the rates (or fees) (or rates and fees) mentioned in the margin for the months of.....191..and that unless you pay into the Office of the Sanitary Board the amount due together with the costs of this attachment within seven days after the date of this notice the property will be sold.

Date.....

Signature of the Officer executing the Warrant of Attachment.

Form D.

WARRANT OF ATTACHMENT AND SALE OF IMMOVABLE PROPERTY.

"The Sanitary Boards Enactment, 1916," Section 37.

To.....(here insert the name of the officer charged with the execution of the warrant).

Whereas it has been made to appear to me that.....of..... has not paid or shewn sufficient cause why he should not pay the sum of $.....due to the Sanitary Board of.....for the rates mentioned in the margin for the months of.....191.., although the period provided by law has elapsed since the service of the notice of demand, and that the said sum cannot be recovered in the manner provided by Section 35 of "The Sanitary Boards Enactment, 1916":

This is to command you to attach the immovable property hereunder described, being the property in respect of which the said sum is due, and if within three months next after such attachment the said sum shall not be paid to the said Sanitary Board together with all costs due, to sell the same (or any portion thereof or interest therein, as the case may be) subject to the directions of the said Sanitary Board.

You are further commanded to return this warrant on or before the.....day of.....191.. with an endorsement stating the date and manner of its execution or why it has not been executed.

Given under my hand and seal this.....day of.....191..

(Seal.) .....

DESCRIPTION OF LAND.

ENACTMENT NO. 2 OF 1917.

An Enactment to subject certain alienated Lands to a condition prohibiting the cultivation thereon of products other than Rice.

ARTHUR YOUNG,
President of the Federal Council.

[8th August, 1917.
10th August, 1917.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as " The Rice Lands Enactment, 1917," and shall come into force on the publication thereof in the *Gazette*.

Interpretation.

2. In this Enactment " the Collector " means any Collector or Assistant Collector duly appointed under " The Land Enactment, 1911."

Condition prohibiting other cultivation than rice.

3. (i) Subject to the provisions of Section 4, every title to land which is on the commencement of this Enactment held by entry in a mukim register and the nature of cultivation whereof is, by an entry in the column of the mukim register headed " Nature of cultivation," described by any of the expressions set out in the schedule hereto and by no other expressions shall by virtue of this Enactment be subject to a condition that the said land shall not be used for any cultivation other than the cultivation of rice, and the said land shall be deemed to have been alienated for the purpose of the cultivation of rice.

(ii) The said condition shall have effect as from the commencement of this Enactment, shall run with the land and shall bind the owner or owners thereof for the time being.

(iii) For the purposes of this Enactment cultivation of rice means cultivation of wet rice except in cases where the expression used in the said column of the mukim register is " tenggala " or " padi (tenggala) " or " padi (ploughed) " or " padi (padang) " ; in such last-mentioned cases cultivation of rice means cultivation of wet or dry rice.

Exemption from condition.

4. Any such land as aforesaid may be exempted from the operation of Section 3 by an order in that behalf made by the Collector of the District in which such land is situate with the permission of the Resident of the State. Every such order shall be recorded in the mukim register, and the Collector shall sign such record, and such record so signed shall be conclusive proof that the land to which such record relates is exempt from the operation of Section 3.

Implied condition for re-entry.

5. Every title to land which is by this Enactment subjected to the condition referred to in Section 3 shall in respect of the said condition be subject, by virtue of this Enactment, to the operation of Section 5 of "The Land Enactment, 1911," as if the said title were a title under "The Land Enactment, 1911," and the said condition were a condition implied by the provisions of "The Land Enactment, 1911."

Claims to compensation.

6. (i) Any person whose name is recorded in a mukim register as owner of any land which is by this Enactment subjected to the condition referred to in Section 3 and who is aggrieved by the operation of this Enactment in respect of such land may at any time within one year from the commencement of this Enactment, but not at any later date, deliver or cause to be delivered to the Resident of the State wherein the said land is situate a written statement containing particulars of

(*a*) any damage or loss caused or likely to be caused to him or to persons claiming under him by the operation of this Enactment and

(*b*) the compensation (if any) claimed in respect of such damage or loss.

(ii) If the Resident and the claimant do not within a period of six months from the date of the delivery of the said statement to the Resident agree as to the matters contained in the claim the Resident shall, or if for any other reason it appears to the Resident expedient so to do the Resident may, refer the claim to the Collector of the District in which the land is situate, and thereafter the claim shall be dealt with as nearly as may be in the manner provided by Sections 85 to 105, inclusive, of "The Land Enactment, 1911," but so that it shall not be necessary to give any public notice or to give notice to persons other than the owner or owners of the land in respect of which the claim is made and the proceedings shall be limited to determining the compensation (if any) to be awarded in respect of loss or damage caused or likely to be caused in respect of the said land to the owner or owners thereof or to persons claiming under him or them by the operation of this Enactment. Provided that

(*a*) no compensation shall be payable on a claim made under this section by any person in respect of land acquired by him directly from the Government, unless he prove that there was no stipulation between himself and the Government that the said land should not be used for any cultivation other than the cultivation of rice ;

(*b*) no person shall have any claim under this section in respect of any land or be deemed for the purposes of the said sections of "The Land Enactment, 1911," to be interested in the land in respect of which a claim is made except the person or persons whose name or names are from time to time recorded in the mukim register as owner or owners thereof.

(iii) Payment of the compensation (if any) awarded shall be made by the Collector of the District in which the land is situate.

7. No suit shall be instituted in any Court against the Chief Secretary to Government or against the Government of the Federated Malay States or of any of them or against any public officer in respect of any matter or thing arising under or resulting from the operation of this Enactment, except a suit to recover compensation awarded under this Enactment in any case where payment thereof is not duly made in accordance with the provisions of Section 6 (iii). Suits barred.

SCHEDULE.

Bendang	Paya (kubang)
Low land	Rice
Padi	Rice field
Padi field	Sawah
Padi (paya)	Tanah pamah
Padi sawah	Tenggala
Swamp padi	Padi (tenggala)
Wet padi	Padi (ploughed)
Paya	Padi (padang)

ENACTMENT NO. 4 OF 1917.

An Enactment to make provision for the registration of Aliens and for other purposes.

ARTHUR YOUNG,
President of the Federal Council.

[8th August, 1917.
1st September, 1917.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as " The Registration of Aliens Enactment, 1917," and shall come into force on such day as shall be appointed by the Chief Secretary to Government by notification in the *Gazette*.

Interpretation.

2. In this Enactment unless there is something repugnant in the subject or context—

" Alien " means a subject of any State in Europe other than the United Kingdom of Great Britain and Ireland or a subject of any other State whose subjects shall have been declared by the Chief Secretary to Government by notification in the *Gazette* to be liable to the provisions of this Enactment ;

" Keeper of a lodging-house " includes any person who for reward receives any other person to lodge with him or in his house, and where any hotel, inn, boarding-house, or lodging-house is under the management of a manager the expression " keeper " when used in relation thereto includes such manager.

Persons arriving or leaving to answer all enquiries.

3. (i) Any person who arrives in the Federated Malay States or who is about to leave the Federated Malay States shall truthfully and fully answer all questions and enquiries put to him by any Commissioned Officer of His Britannic Majesty's Naval or Military Forces or any person authorized by such officer or by any Port Officer, Health Officer, Police Officer, or Boarding Officer, notwithstanding that the answer to any such question may tend to render such person liable to any restriction whatsoever or may tend to incriminate him, and shall disclose and produce to any such officer on demand all documents in the possession of such person tending directly or indirectly to establish his identity, nationality, or occupation, or any absolute or conditional liability on his part to any military or naval service under any State whatsoever.

(ii) This section shall extend to any enquiry made of any person who is suspected of having arrived in the Federated Malay States since the fourth day of August, 1914, or who shall hereafter so

arrive, or who shall hereafter be suspected of being about to leave the Federated Malay States.

(iii) Any answer to any question or enquiry shall be admissible in evidence in any proceedings under this Enactment against the person making such answer ; provided that nothing in this section shall be construed as rendering any such answer inadmissible in any other proceedings in which it would otherwise be admissible.

(iv) Any person who fails to comply with the provisions of this section shall be deemed to be guilty of an offence against this Enactment.

Persons arriving or leaving to proceed for further enquiry to place directed.

4. (i) Any person who arrives in the Federated Malay States, or who is about to leave the Federated Malay States, shall, if so directed by any officer mentioned in Section 3, proceed, at or before such time as may be directed by such officer, to such place or places as such officer may direct for further enquiry into his case.

(ii) Any such person who fails to comply with the provisions of this section shall be deemed to be guilty of an offence against this Enactment.

Registration of aliens, resident in the Federated Malay States.

5. (i) An alien, wherever resident in the Federated Malay States, shall comply with the following requirements as to registration :

(*a*) he shall as soon as may be furnish to the Chief Police Officer of the State in which he is resident particulars as to the matters set out in the schedule ;

(*b*) he shall, if he is about to change his residence, furnish to the Chief Police Officer of the State in which he is then resident particulars as to the date on which his residence is to be changed, and as to his intended place of residence, and on effecting any change of residence from one State to another he shall also forthwith report his arrival in the State into which he moves to the Chief Police Officer of that State ;

(*c*) he shall furnish to the Chief Police Officer of the State in which he is resident particulars of any circumstance affecting in any manner the accuracy of the particulars previously furnished by him for the purpose of registration within forty-eight hours after the circumstance has occurred.

(ii) Where an alien is lodging with or living as a member of the household of any other person, it shall be the duty of that person either himself to furnish with respect to the alien the particulars aforesaid, or to give notice of the presence of the alien in his household to the Chief Police Officer.

(iii) Where an alien has a household he shall furnish the particulars as aforesaid not only as respects himself, but as respects every alien who is living as a member of his household.

(iv) An alien or other person who fails to comply with the provisions of this section shall be deemed to be guilty of an offence against this Enactment.

Chief Police Officer to keep register.

6. (i) The Chief Police Officer of each State shall

(*a*) keep a register for the purposes of Section 5 ;

(*b*) register therein all aliens resident in the State who furnish particulars for the purpose, by entering these particulars in the register ;

(*c*) enter in the register all other particulars furnished in accordance with Section 5 with respect to any alien so registered ; and

(*d*) if a registered alien ceases to be resident in the State, record the fact in the register.

(ii) Every alien shall furnish to the Chief Police Officer of the State, in addition to any such particulars as aforesaid, any information which may reasonably be required for the purpose of registering the alien, or maintaining the correctness of the particulars entered on the register.

(iii) Every alien, who fails to give any information when so required, or gives any false information, shall be deemed to be guilty of an offence against this Enactment.

Hotel-keepers to keep register.

7. (i) The keeper of every hotel, inn, boarding-house, and lodging-house, shall

(*a*) keep a register in such form as may be prescribed by the Chief Secretary to Government of all persons over the age of fourteen years staying at the hotel, inn, boarding-house, or lodging-house, who are aliens ;

(*b*) as soon as may be after any such person comes to stay at the hotel, inn, boarding-house, or lodging-house, ascertain, and enter in the register kept for the purpose, his name and nationality, together with the date of his arrival ;

(*c*) on the departure of any such person, as soon as may be, enter the date of departure and destination on departure of that person in the register ; and

(*d*) also ascertain and enter in the register from time to time such other particulars as may be prescribed by the Chief Secretary to Government.

(ii) The keeper of an hotel, inn, boarding-house, or lodging-house, who

(*a*) fails to comply with any of the foregoing provisions of this section, or

(*b*) makes an entry in any such register which he knows or could by the exercise of reasonable diligence have ascertained to be false,

shall be deemed to be guilty of an offence against this Enactment.

Chief Secretary may order returns to be made of all persons staying in hotels, etc.

8. The keeper of every hotel, inn, boarding-house, or lodging-house shall also, if directions for the purpose are issued by the Chief Secretary to Government, make to the Chief Police Officer of the State in which the hotel, inn, boarding-house, or lodging-house is situate, such returns as to the persons staying at the hotel, inn,

boarding-house, or lodging-house, at such times or intervals and in such form as are specified in such directions, and if he fails to do so, or makes any false return, he shall be deemed to be guilty of an offence against this Enactment.

All persons staying in hotels, etc., required to furnish prescribed particulars.

9. (i) The keeper of every hotel, inn, boarding-house, and lodging-house, shall, with a view to ascertaining whether any person staying at the hotel, inn, boarding-house, or lodging-house is or is not an alien, require every person (whether an alien or not) who stays at the hotel, inn, boarding-house, or lodging-house to furnish to him, in such form as may be prescribed by the Chief Secretary to Government, a signed statement as to the particulars contained in that form.

(ii) Every person (whether an alien or not) shall furnish the said particulars and such a signed statement as aforesaid when so required.

(iii) Every keeper of an hotel, inn, boarding-house, or lodging-house who fails to require any person staying at the hotel, inn, boarding-house, or lodging-house to furnish such information as aforesaid, and every person staying at the hotel, inn, boarding-house, or lodging-house who fails to give any information when so required, or gives any false information, shall be deemed to be guilty of an offence against this Enactment.

Register to be open to inspection at all times.

10. Every register kept under Section 7 and all particulars furnished under Section 9 shall at all reasonable hours be open for inspection by any officer of Police or by any person authorized by the Chief Police Officer.

Exemptions.

11. The Resident of a State may exempt the keeper of any hotel, inn, boarding-house, or lodging-house in such State from all or any of the requirements of this Enactment.

Powers of detention, arrest, search, seizure, and removal.

12. (i) Any Police Officer authorized by the Commissioner of Police or the Chief Police Officer of the State in writing in that behalf, either generally or for a particular occasion, may

(*a*) detain for further enquiries during a period not exceeding four days any person in whose case such Police Officer may have reason to believe that further enquiry is necessary ;

(*b*) arrest and bring before a Magistrate any person whom such Police Officer may have reason to suspect of having contravened or attempted to contravene any of the provisions of this Enactment ;

(*c*) search the person and property and effects of any person whom it may be lawful for such Police Officer to detain or arrest, or who may arrive in or be about to leave the Federated Malay States, provided that no female person shall be searched except by a female, and provided that no person shall be searched in a public place if he objects to be so searched ;

(*d*) search any place or vessel (not being a ship of war) in which such Police Officer may have reason to suspect that there

may be anything which may be evidence of any contravention or intended contravention of any of the provisions of this Enactment, or which may belong to or be in the possession or under the sole or partial control of any person whom it may be lawful for such Police Officer to detain or arrest;

(*e*) seize, remove, and detain anything which may appear to be evidence of any contravention of the law, or which it may be desirable to detain for further examination, or which may appear to belong to or to be in the possession of or to be under the sole or partial control of any person whom it may be lawful for such Police Officer to detain or arrest.

(ii) Such Police Officer may

(*a*) break open any outer or inner door of or in any such place;

(*b*) forcibly enter any such vessel and every part thereof;

(*c*) remove by force any personal or material obstruction to any arrest, detention, search, seizure, or removal which he is empowered to make;

(*d*) detain every person found in such place or on board such vessel until such place or vessel has been searched.

(iii) Any person who obstructs any detention, arrest, search, seizure, or removal, which is authorized by this Enactment, shall be deemed to be guilty of an offence against this Enactment.

Penalties.

13. (i) Any person who is guilty of an offence against this Enactment shall be liable on conviction before the Court of a Magistrate of the First Class to a fine not exceeding one thousand dollars or to imprisonment of either description for a term which may extend to six months, and the Court before which he is convicted may, either in addition to or in lieu of any such punishment, require such person to enter into recognizances with or without sureties to comply with the provisions of this Enactment or such provisions thereof as the Court directs.

(ii) If any person fails to comply with an order of the Court requiring him to enter into recognizances, the Court may order him to undergo imprisonment of either description for a term which may extend to six months.

Aiding and abetting.

14. Any person who aids or abets any person in the commission of any offence against this Enactment or knowingly harbours any person whom he knows or has reasonable ground for supposing to have committed an offence against this Enactment shall be deemed himself to be guilty of an offence against this Enactment.

Power of arrest without warrant.

15. Any person who commits an offence against this Enactment or is reasonably suspected of having committed or being about to commit an offence against this Enactment may be taken into custody without warrant by any Police Officer.

Onus of proof.

16. If any question arises under this Enactment whether any person is an alien or not, the onus of proving that that person is not an alien shall lie upon that person.

THE SCHEDULE.

(Section 5.)

"*The Registration of Aliens Enactment*, 1917."

PARTICULARS TO BE FURNISHED ON REGISTRATION.

Name.....

Nationality and birth-place.....

Sex.....

Trade, profession, or employment.....

Age.....

Personal description and, if so required, a photograph of the alien.....

Distinctive marks (if any).....

Finger prints (if so required).....

Place of residence (including nature of tenure or occupancy).....

Place of business (if any).....

Date of commencement of residence.....

Whether the alien has been or is in the service of any Government, and, if so, for how long and in what capacity.....

Any other matters of which particulars are reasonably required by the Chief Police Officer.....

ENACTMENT NO. 5 OF 1917.

As amended by Fed. E. 13 of 1918.

An Enactment to repeal and re-enact "The Public Emergency Enactment, 1914."

ARTHUR YOUNG,
President of the Federal Council.

[8th August, 1917.
29th August, 1917.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title.

1. (i) This Enactment may be cited as "The Public Emergency Enactment, 1917."

Operation.

(ii) Whenever it appears to the High Commissioner that owing to the existence of any public emergency it is expedient that this Enactment should be brought into force, he may by notification in the *Gazette* order that this Enactment come into force on a date to be specified in such notification and this Enactment shall come into force on the date so specified and shall thereafter remain in force until the High Commissioner shall by notification in the *Gazette* order that the same do cease to be in force.

Repeal and saving provisions.

(iii) Upon the coming into force of this Enactment the Enactments specified in the schedule hereto shall be repealed, but all rules, orders, regulations, prohibitions, and notifications made or issued under any Enactment hereby repealed which were in force immediately prior to the commencement of this Enactment shall be deemed to have been made or issued under this Enactment.

Interpretation.

2. In this Enactment "the Army Act" means the Act of the Imperial Parliament 44 and 45 Victoria, Chapter 58.

Rules for ports and harbours.

3. The High Commissioner may make any rules or orders respecting any port or harbour in the Federated Malay States and the movement or location of ships and boats therein or in any waters of the Federated Malay States, and any provision of any written law which may be inconsistent with any rule or order made by the High Commissioner under this section and published in the *Gazette* shall be suspended and of no effect during the continuance of such rule or order. Provided that no such rule or order shall be put in force in such a manner as to be prejudicial to the action of any Naval or Military Forces of His Britannic Majesty.

Removal of persons from the Federated Malay States.

4. The High Commissioner may order any person to quit the Federated Malay States or any part of or place in the said States to be specified in such order and may at the time of making such order or at any time thereafter cause such person to be arrested and

detained in custody pending his departure or removal from the Federated Malay States or from such part thereof or place therein and may cause him to be removed from the Federated Malay States or from such part thereof or place therein and for that purpose to be placed in any railway train or on board of any ship or boat and there to be kept in custody until such removal has been effected.

Prohibition of importation or exportation.

5. The High Commissioner may, by notification in the *Gazette*, prohibit the importation into or the exportation from the Federated Malay States, either absolutely or from or to any country, territory, or place without the Federated Malay States in such notification to be specified, of any animal or thing, and any animal or thing to which such prohibition as aforesaid relates shall be deemed for the purposes of the Customs Regulations Enactments, 1907, to be prohibited goods.

Requisitioning personal service.

6. The High Commissioner may require any person to do any work or render any personal service which the High Commissioner may think necessary to order in aid of or in connection with the defence of the Federated Malay States.

Requisitioning movable property.

7. The High Commissioner may require any person to supply any animals, vehicles, ships, boats, or other movable property belonging to or under the control of such person to the Government if such property be required in aid of or in connection with the defence of the Federated Malay States and, in default of the person supplying the same, may seize and take possession of and retain any such animals, vehicles, ships, boats, or other movable property for such purposes.

Taking possession of land.

8. The High Commissioner may take and retain for such period as he may think necessary possession for public purposes of any land or building or other property and may, if he think it necessary for the purposes of the defence of the Federated Malay States, cause any buildings to be pulled down and removed and any property to be removed from one place to another or to be destroyed.

Taking possession of food and fuel.

9. The High Commissioner may seize and take possession of any grain, article of food, coal, or other fuel and mineral oils within the limits of the Federated Malay States and may sell any grain, article of food, coals, fuel, and oils so seized and taken at such prices as may be determined by the Board hereinafter mentioned, and the moneys to be received for such sales shall be paid into the Treasury of the Federated Malay States.

Regulation of prices of food.

10. (i) The High Commissioner may, by notification in the *Gazette*, prescribe the maximum price for which any article of food may be sold either throughout the Federated Malay States or in any part thereof specified in the said notification, and any person who, after the publication of such notification in the *Gazette* and until it shall have been revoked, shall in any place to which such notification applies sell any article of food at a higher price than the price so prescribed shall be deemed guilty of an offence against this Enactment and shall on conviction thereof be liable to a fine not exceeding fifty dollars or to imprisonment of either description for a term not exceeding three months.

(ii) The terms of every notification published under sub-section (i) shall be made known by the posting of copies thereof and of renderings thereof in the Malay, Chinese, and Tamil languages in public places in towns and villages throughout the area wherein such notification has effect, and the revocation of every such notification shall be similarly made known ; provided that nothing in this sub-section contained shall affect the validity or effect of the publication of a notification under sub-section (i).

(iii) Whenever it is proved that a breach of the provisions of this section has been committed by a person employed by a dealer in articles of food, such dealer shall be held to be liable for such breach and to the penalty provided therefor unless he prove to the satisfaction of the Court before which the proceedings are had that the same was committed without his knowledge or consent and that he had taken all reasonable steps to ensure due compliance with the provisions of this section ; provided that nothing in this sub-section contained shall exempt any person employed by such dealer from liability to the penalty provided for any breach of the provisions of this section proved to have been committed by such person.

Control of trade in liquors.

11. The High Commissioner may take any steps which he may consider necessary in the interests of the defence of the Federated Malay States for controlling the trade in beer, wine, spirits, toddy, or arrack.

Remuneration and compensation.

12. The High Commissioner shall, out of the public funds of the Federated Malay States, pay to every person who shall be required to do any personal service by virtue of this Enactment such remuneration, and to every person whose property shall be taken, including any grain, article of food, coal, or other fuel taken by virtue of Section 9 or temporarily taken possession of or removed or destroyed by virtue of this Enactment, such compensation as shall be agreed on between the High Commissioner and such person and, in default of agreement, such renumeration or compensation as shall be awarded by the Board hereinafter mentioned, whose award shall be final.

Board for fixing remuneration, compensation, and prices.

13. (i) For the purpose of determining the amount of any remuneration or compensation payable under this Enactment and the prices at which any grain, article of food, coal, or other fuel taken under Section 9 may be sold to the inhabitants of the Federated Malay States, the High Commissioner shall appoint a Board consisting of five persons, of whom one shall be a Judicial Commissioner or Magistrate, two shall be officers employed in the public service, and the other two shall be inhabitants of the Federated Malay States not so employed. All questions referred to the said Board shall, in case of a difference of opinion, be decided by the votes of the majority of the members. The Judicial Commissioner or Magistrate shall be the Chairman of the Board.

(ii) The said Board in fixing the price to be paid for articles taken under Section 9 shall not make any addition on account of the purchase being compulsory, and they shall fix the prices at which such articles shall be sold at such rates as will, except under special circumstances, recoup to the Government the cost of purchasing the same and other expenses incidental thereto.

(iii) The said Board shall in respect of requiring the attendance of witnesses and taking evidence on oath or affirmation be in the same position in all respects as a Magistrate exercising civil jurisdiction, and persons summoned by the said Board to attend before it shall be legally bound so to attend and to state the truth on all subjects on which they may be questioned by the Board.

Entry upon property.

14. Any person authorized by the High Commissioner in writing in that behalf may enter upon and into any land, house, or other building in the Federated Malay States and examine and inspect such land or building and every or any part thereof and, in case of opposition or obstruction, may use force to effect such entry, examination, and inspection and shall not be liable for any damage directly or indirectly occasioned by such forcible entry.

Penalty.

15. Every person who refuses or neglects to obey or comply with any order or requisition made under this Enactment or does anything whereby the execution of any such order or requisition is prevented or hindered, or with intent to prevent or hinder the execution of any such order or requisition, shall be guilty of an offence against this Enactment, and shall, on summary conviction thereof, be liable to a fine not less than twenty dollars and not more than one hundred dollars or to imprisonment of either description for a term not exceeding one month.

Interference with contracts.

16. If any person shall by obeying any order or requisition made under this Enactment be prevented from fulfilling any contract, such person shall not be deemed to have thereby committed a breach of contract but such contract shall be deemed to be suspended by such order or requisition so far as its fulfilment is thereby rendered impossible.

Power to postpone and suspend liabilities.

17. The High Commissioner may, by notification in the *Gazette*, postpone for such period as he may think necessary or just and expedient the time at which any rent or other moneys shall become due and payable and particularly may so extend the period of maturity of bills of exchange or other negotiable instruments payable in the Federated Malay States and may suspend for such time as he may think right the execution of the judgment of any Civil Court and the enforcement of any process for the recovery of the possession of property in default of payment of rent, if he shall consider that, owing to circumstances arising out of the existing public emergency, the immediate execution of such judgments or enforcement of such process would be inequitable or inexpedient.

Limitation of Sections 3, 4, 6, 7, and 9.

18. Sections 3, 4, 6, 7, and 9 shall not apply to any person in the Naval or Military Service of His Britannic Majesty or to any of His said Majesty's ships.

Order subjecting persons to military law.

19. (i) At any time when the Army Act shall, by virtue of any Enactment of the Federal Council, be in force, whether with or without exceptions or modifications, in the Federated Malay States, the High Commissioner may, by order under his hand published in the *Gazette*, direct that all persons or particular classes of persons who shall for the time being be within the limits of the Federated Malay

States or of particular parts of the Federated Malay States to be specified in the order and to whom the Army Act does not otherwise apply shall be subject to military law for the purposes of the Army Act.

(ii) Every such order shall remain in force until revoked by an order under the hand of the High Commissioner published in the *Gazette*.

(iii) To every person who is included within the scope of an order published under sub-section (i) the Army Act shall be deemed to apply in the same manner as if such person had been a person accompanying His Britannic Majesty's troops or some portion thereof when employed on active service, and such person shall for the purposes of the said Act be deemed to be under the command of the officer for the time being commanding the troops in the Colony.

Provided that, except in the case of an offence punishable under Section 20, a person who is by virtue of this section subject to military law shall, unless the High Commissioner directs otherwise, be tried by a competent Civil Court, and not by court-martial, for any offence for which he would be triable if he were not subject to military law.

Provided further that a person who is by virtue of this section subject to military law may, if the High Commissioner so directs, be tried for any offence punishable under the Army Act by a Civil Court, that is to say, by the Court of a Magistrate in a summary manner if the offence is not punishable by death or penal servitude and if the Court considers that it would be adequately punished by imprisonment for a term not exceeding six months and in all other cases by the same Court and in the same manner as if the offence with which such person is charged were an offence against the civil law not triable by the Court of a Magistrate.

Regulations for the public safety.

20. (i) The High Commissioner may at any time when a state of war exists between His Britannic Majesty and any country or State (such country or State and the inhabitants thereof being hereafter in this section referred to as "the enemy") make regulations for securing the public safety and the defence of the Federated Malay States *or for furthering directly or indirectly the prosecution of the war*, and as to the powers, *duties, and obligations for any of the said purposes* of persons employed in the Federated Malay States in the public service of the said States or in the service of His Britannic Majesty and of any other persons, and in particular may by such regulations make provision with regard to all matters coming within the classes of subjects hereinafter enumerated, that is to say :

E. 13 of 1918.

I. Censorship, and the control and suppression of publications, writings, maps, plans, photographs, communications, and means of communication ;

II. Arrest, detention, exclusion, and deportation ;

III. Control of the harbours, ports, and territorial waters of the Federated Malay States, and the movements of vessels ;

IV. Transportation by land, air, or water, and the control of the transport of persons and things ;

V. Trading, exportation, importation, production, and manufacture ;

VI. Appropriation, control, forfeiture, and disposition of property, and of the use thereof ;

VII. Prevention of the spread of reports likely to cause unnecessary alarm or despondency or of false reports or reports likely to cause disaffection to His Britannic Majesty or to any of the Rulers of the Federated Malay States or to interfere with the success of His Britannic Majesty's Forces by land or sea or to prejudice His Britannic Majesty's relations with foreign powers ;

and may by such regulations authorize the trial by courts-martial or Civil Courts, and in the case of minor offences by Courts of Magistrates, of persons committing offences against such regulations, and the infliction by such Civil Courts of the following punishments, that is to say,

(*a*) in the case of Courts of Magistrates, imprisonment of either description for a term not exceeding six months or a fine not exceeding one thousand dollars, or both such imprisonment and fine ; and

(*b*) in the case of the Court of a Judicial Commissioner, penal servitude for life or any less punishment, or, in the case of offences where intention of assisting the enemy is proved, death or any less punishment.

(ii) For the purpose of the trial of a person for an offence against such regulations by court-martial and the punishment thereof, the person may be proceeded against and dealt with as if he were a person subject to military law and has on active service committed an offence under Section 5 of the Army Act.

Provided that where it is proved that the offence is committed with the intention of assisting the enemy a person convicted of such an offence by a court-martial shall be liable to suffer death.

(iii) For the purpose of the trial of a person for an offence under the regulations by a Civil Court and the punishment thereof, the offence shall be deemed to have been committed either at the place in which the same actually was committed or in any place in which the offender may be.

(iv) Any provision of any law of the Federated Malay States which may be inconsistent with any regulation made by the High Commissioner under this Section shall be suspended and of no effect during the continuance of such regulation.

(v) All regulations made under this section shall be published in the *Gazette*.

21. The High Commissioner may, if he thinks fit, delegate to the Chief Secretary to Government or to the Naval or Military Authorities in the Federated Malay States any of his powers under this Enactment, and may at any time revoke any such delegation. Delegation of powers.

SCHEDULE.

ENACTMENTS REPEALED.

No. and year.	Short title.
1 of 1914	The Public Emergency Enactment, 1914
5 of 1914	The Public Emergency Enactment, 1914, Amendment Enactment, 1914
9 of 1915	The Public Emergency Enactment, 1914, Amendment Enactment, 1915
17 of 1916	The Public Emergency Enactment, 1914, Amendment Enactment, 1916

ENACTMENT NO. 7 OF 1917.

An Enactment to consolidate and amend the law relating to Fraudulent Marks on Merchandise.

ARTHUR YOUNG,
President of the Federal Council.

[8th August, 1917.
10th August, 1917.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as " The Merchandise Marks Enactment, 1917," and shall come into force upon the publication thereof in the *Gazette*.

(ii) Upon the coming into force of this Enactment the Enactments mentioned in the schedule shall be repealed.

Interpretation.

2. In this Enactment unless there is something repugnant in the subject or context—

" Trade mark " means a trade mark registered in a register of trade marks kept under this Enactment or under any other Enactment in force for the time being in the Federated Malay States or under any law in force for the time being in the United Kingdom of Great Britain and Ireland relating to trade marks, and includes any trade mark which either with or without registration is protected by law in any British Possession or Protectorate or in any foreign State to which the provisions of Section 91 of the Patents and Designs Act, 1907, of the said United Kingdom are for the time being under Order in Council of His Britannic Majesty applicable in respect of trade marks ;

" Trade description " means any description, statement, or other indication, direct or indirect,

(*a*) as to the number, quantity, measure, gauge or weight of any goods ; or

(*b*) as to the place or country in which any goods were made or produced ; or

(*c*) as to the mode of manufacturing or producing any goods ; or

(*d*) as to the material of which any goods are composed ; or,

(*e*) as to any goods being the subject of an existing patent, privilege, or copyright ; or

(*f*) as to the degree of fineness of gold and silver goods ;

and the use of any figure, word, or mark which, according to the custom of the trade, is commonly taken to be an indication of any

of the above matters shall be deemed to be a trade description within the meaning of this Enactment;

"False trade description" means a trade description which is false in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement, or otherwise, where that alteration makes the description false in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Enactment;

"Goods" means anything which is the subject of trade, manufacture, or merchandise;

"Manufacturer, dealer, or trader" and "proprietor" include any company or association or body of individuals, whether incorporated or not;

"Name" includes any abbreviation of a name.

TRADE, PROPERTY, AND OTHER MARKS.

Trade mark.

3. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark.

Property mark.

4. A mark used for denoting that movable property belongs to a particular person is called a property mark.

Using a false trade mark.

5. Whoever marks any goods or any case, package, or other receptacle containing goods, or uses any case, package, or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

Using a false property mark.

6. Whoever marks any movable property or goods or any case, package, or other receptacle containing movable property or goods, or uses any case, package, or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked belong to a person to whom they do not belong, is said to use a false property mark.

Punishment for using a false trade mark or property mark.

7. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

Counterfeiting a trade mark or property mark used by another.

8. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting a mark used by a public servant.

9. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place or that the property is of a particular

quality or has passed through a particular office or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

What constitutes counterfeiting a trade mark or property mark.

10. (i) A person shall be deemed to counterfeit a trade mark or property mark who either

(*a*) without the assent of the proprietor of the trade mark or property mark makes that trade mark or property mark or a mark so nearly resembling that trade mark or property mark as to be calculated to deceive ; or

(*b*) falsifies any genuine trade mark or property mark whether by alteration, addition, effacement, or otherwise ;

and any trade mark or property mark so made or falsified is in this Enactment referred to as a counterfeit trade mark or property mark.

Onus of proof.

(ii) In any prosecution for counterfeiting a trade mark or property mark the burden of proving the assent of the proprietor shall lie on the defendant.

Making or possession of any instrument for counterfeiting a trade mark or property mark.

11. Whoever makes or has in his possession any die, plate, or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both.

Importing or selling, etc., goods marked with a counterfeit trade mark or property mark.

12. Whoever imports, sells, or exposes or has in his possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package, or other receptacle in which such goods are contained, shall, unless he proves

(*a*) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(*b*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(*c*) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making a false mark upon any receptacle containing goods.

13. Whoever makes any false mark upon any case, package, or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such

receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for making use of any such false mark.

14. Whoever makes use of any such false mark in any manner prohibited by Section 13 shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

Tampering with property mark with intent to cause injury.

15. Whoever removes, destroys, defaces, or adds to any property mark intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

TRADE DESCRIPTIONS.

Provisions supplemental to the definition of false trade description.

16. (i) The provisions of this Enactment respecting the application of a false trade description to goods shall extend to the application to goods of any such figures, words, or marks or arrangement or combination thereof, whether including a trade mark or not, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are.

(ii) The provisions of this Enactment respecting the application of a false trade description to goods or respecting goods to which a false trade description is applied shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied in like manner as if such name or initials were a trade description, and for the purpose of this Enactment the expression false name or initials means as applied to any goods, any name or initials of a person which

(*a*) are not a trade mark or part of a trade mark ;

(*b*) are identical with or a colourable imitation of the name or initials of a person carrying on business in connection with goods of the same description and not having authorized the use of such name or initials ; and

(*c*) are either those of a fictitious person or of some person not *bonâ fide* carrying on business in connection with such goods.

Application of trade descriptions.

17. (i) A person shall be deemed to apply a trade description of goods who

(*a*) applies it to the goods themselves ;

(*b*) applies it to any covering, label, reel, or other thing in or with which the goods are sold or exposed or had in possession for any purpose of sale, trade, or manufacture ;

(*c*) places, encloses, or annexes any goods which are sold or exposed or had in possession for any purpose of sale, trade, or manufacture in, with or to any covering, label, reel, or other thing to which a trade description has been applied ; or

(*d*) uses a trade description in any manner calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade description.

(ii) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame, or wrapper ; and the expression "label" includes any band or ticket.

(iii) A trade description shall be deemed to be applied whether it is woven, impressed, or otherwise worked into or annexed or affixed to the goods or to any covering, label, reel, or other thing.

Application of false trade description is an offence.

18. Any person who applies any false trade description to goods or causes any false description to be applied to goods shall, subject to the provisions of this Enactment and unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred dollars, and in case of a second or subsequent conviction with imprisonment of either description which may extend to one year, or with fine or with both.

Importation, sale, etc., of goods to which a false description is applied is an offence.

19. Any person who imports, sells, or exposes for, or has in his possession for, sale or any purpose of trade or manufacture any goods or things to which a false trade description is applied, shall unless he proves

(*a*) that having taken all reasonable precaution against committing an offence against this Enactment, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description ; and

(*b*) that on demand made by or on behalf of the prosecutor he gave all the information in his power with respect to the persons from whom he obtained such goods or things ; or

(*c*) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred dollars, and in case of a second or subsequent conviction with imprisonment of either description which may extend to one year, or with fine or with both.

Application of Enactment to watches.

20. Where a watch case has thereon any words or marks which constitute, or are by common repute considered as constituting, a description of the country in which the watch was made, and the watch bears no description of the country where it was made, those words or marks shall *primâ facie* be deemed to be a description of that country within the meaning of this Enactment, and the provisions of this Enactment with respect to goods to which a false trade description has been applied, and with respect to importing, selling, or exposing for or having in possession for sale or any

purpose of trade or manufacture goods with a false trade description, shall apply accordingly, and for the purposes of this section the expression " watch " means all that portion of a watch which is not the watch case.

UNINTENTIONAL CONTRAVENTION OF THE LAW RELATING TO MARKS AND DESCRIPTIONS.

Unintentional contravention of the law relating to marks.

21. Where a person is accused under Section 7 of using a false trade mark or property mark by reason of his having applied a mark to any goods, property, or receptacle in the manner mentioned in Section 5 or Section 6 as the case may be, or under Section 18 of applying to, or causing to be applied to, goods any false trade description, or under Section 11 of making any die, plate, or other instrument for the purpose of counterfeiting a trade mark, or property mark, and proves

(*a*) that in the ordinary course of his business he is employed on behalf of other persons to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates, or other instruments for making or being used in making trade marks or property marks, and that in the case which is the subject of the charge he was so employed by some person resident in the Federated Malay States and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof ;

(*b*) that he took reasonable precautions against committing the offence charged ;

(*c*) that he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark or description ; and

(*d*) that he gave to the prosecutor all the information in his power with respect to the persons on whose behalf the mark or description was applied,

he shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the prosecutor unless he has given due notice to him that he will rely on the above defence.

FORFEITURE OF GOODS.

Forfeiture of goods.

22. (i) When a person is convicted under Section 7 of using a false trade mark, or under Section 12 of importing, selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark applied thereto, or under Section 13 or Section 14 of making, or making use of, a false mark, or under Section 18 or Section 19 of applying a false trade description to goods or of importing, selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in Section 12 or Section 19 or Section 21, the Court convicting or acquitting him may direct the forfeiture of all goods

and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

(ii) When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(iii) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty dollars, an appeal against the forfeiture may be preferred, within seven days from the date of the direction, to the Court of a Judicial Commissioner.

PROCEDURE.

Description of trade mark in pleadings, etc.

23. In any charge, proceeding, or document in which any trade mark or property mark or counterfeit trade mark or property mark is intended to be mentioned, it shall be sufficient, without further description and without any copy or facsimile, to state that trade mark or property mark or counterfeit trade mark or property mark to be a trade mark or property mark or counterfeit trade mark or property mark.

Rules as to evidence.

24. In the case of imported goods evidence of the port of shipment shall be *primâ facie* evidence in any prosecution under this Enactment of the place or country in which the goods were made or produced.

Costs of defence or prosecution.

25. On any prosecution under this Enactment the Court may order costs to be paid to the accused by the prosecutor or to the prosecutor by the accused, having regard to the information given by and the conduct of the accused and prosecutor respectively; provided that no costs shall in any case be awarded against the Public Prosecutor.

Limitation of prosecution.

26. No prosecution for an offence against this Enactment shall be commenced after the expiration of three years from the date of the commission of the offence or of one year from the date of the first discovery thereof by the prosecutor, whichever expiration shall first happen.

Search warrant.

27. (i) Where upon information or complaint of an offence against this Enactment a Magistrate has issued either a summons requiring the person against whom such information or complaint is made to appear to answer to the same or a warrant for the arrest of such person and either the said Magistrate on or after issuing the summons or warrant or any other Magistrate is satisfied, by information on oath, that there is reasonable cause to suspect that any goods or things by means of or in relation to which such offence has been committed are in any house or premises of the said person or otherwise in his possession or under his control in any place, such Magistrate may issue a warrant under his hand by virtue of which it shall be lawful for any police officer named or referred to in the warrant to enter such house, premises, or place at any reasonable time by day and to search there for and seize and take away those goods or things.

(ii) Any goods or things seized under any such warrant shall be brought before the Court of a Magistrate for the purpose of its being determined whether the same are or are not liable to forfeiture under this Enactment.

(iii) If the owner of any goods or things, which would be liable to forfeiture under this Enactment, is unknown or cannot be found, an information or complaint may be laid for the purpose only of enforcing such forfeiture, and the Court of a Magistrate may cause notice to be advertised, stating that, unless cause is shewn to the contrary at the time and place named in the notice, such goods or things will be forfeited, and at such time and place the Court, unless the owner or any person on his behalf or other person interested in the goods or things shews cause to the contrary, may order such goods or things or any of them to be forfeited.

(iv) Any goods or things forfeited under this section, or under any other provision of this Enactment, may be destroyed or otherwise disposed of in such manner as the Court by which the same are forfeited may direct, and the Court may out of any proceeds which may be realized by the disposition of such goods, all trade marks and property marks and trade descriptions being first obliterated, award to any innocent party any loss he may have innocently sustained in dealing with such goods.

Punishment of abetment in Federated Malay States of act done out of Federated Malay States.

28. Any person who, being within the Federated Malay States, abets the commission without the Federated Malay States of any act which, if committed in the Federated Malay States, would under this Enactment be an offence may be tried for such abetment in any place in the Federated Malay States in which he may be found and be punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted.

MISCELLANEOUS.

Implied warranty on sale of marked goods.

29. On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied the vendor shall be deemed to warrant that the mark is a genuine trade mark and not forged or falsely applied or that the trade description is not a false trade description within the meaning of this Enactment, unless the contrary is expressed in some writing signed by or on behalf of the vendor and delivered at the time of the sale or contract to, and accepted by the vendee.

Provisions not to apply in certain cases.

30. (i) Where, on the commencement of this Enactment, a trade description is lawfully and generally applied to goods of a peculiar class or manufactured by a particular method to indicate the particular class or method of manufacture of such goods, the provisions of this Enactment with respect to false trade description shall not apply to such trade description when so applied.

(ii) Where such trade description includes the name of a place or country and is calculated to mislead as to the place or country where the goods to which it is applied were actually made or produced, and the goods are not actually made or produced in that

place or country, this section shall not apply unless there is added to the trade description immediately before or after the name of that place or country, in an equally conspicuous manner with that name, the name of the place or country in which the goods were actually made or produced, with a statement that they were made or produced there.

Savings.

31. Nothing in this Enactment shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in the Federated Malay States who *bonâ fide* acts in obedience to the instructions of such master, and on demand made by or on behalf of the prosecutor has given full information as to his master and as to the instructions which he has received from his master.

Rules to provide for registration.

32. The Chief Secretary to Government may from time to time make rules to provide for the establishment of a system of registration of trade marks, and such rules when published in the *Gazette* shall have the force of law.

Such rules may provide for prescribing and regulating

(*a*) the place at which and the person by whom the register is to be kept, and the nature of the particulars to be entered therein or excluded therefrom ;

(*b*) the nature and contents of a registrable trade mark, and the effect of registration ;

(*c*) the mode of applying for registration and of opposing any such application, and the manner of dealing with any such application or opposition ;

(*d*) the issue of certificates of registration ;

(*e*) the duration and renewal of registration ;

(*f*) the assignment of trade marks ;

(*g*) the inspection of the register by the public, and the issue of certified extracts therefrom ;

(*h*) the prohibition of registration of identical or similar trade marks ;

(*i*) the alteration of registered trade marks, the correction of the register, and the removal of registered trade marks therefrom ;

(*j*) the classification of goods, for the purposes of registration of trade marks ;

(*k*) the fees to be paid in respect of applications and registration and other matters ;

(*l*) the powers and duties of public officers in respect of any of the matters included in this section ;

(*m*) the fine with which the contravention of any rule made under this section shall be punishable, but so that such fine shall not exceed five hundred dollars ;

(*n*) any other matters, whether similar or not to those above-mentioned, as to which rules may be necessary or desirable in order to effectually provide for the registration of trade marks and for matters connected therewith.

SCHEDULE.

ENACTMENTS REPEALED.

No. and year.	Short title.
1 of 1910	The Merchandise Marks Enactment, 1910
6 of 1911	The Merchandise Marks Enactment, 1910, Amendment Enactment, 1911
6 of 1913	The Merchandise Marks Enactment, 1910, Amendment Enactment, 1913

ENACTMENT NO. 13 OF 1917.

An Enactment to enable measures to be taken for the prevention of Malaria.

ARTHUR YOUNG,
President of the Federal Council.

[8th August, 1917.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Prevention of Malaria Enactment, 1917," and shall come into force on such date as the Chief Secretary may by notification in the *Gazette* appoint in that behalf.

Interpretation

2. In this Enactment, unless the context otherwise requires, the following terms shall have the meanings hereby assigned to them respectively :

"Board of Health area" means an area subject to the control of a Board of Health in respect of the matters provided for by this Enactment ;

"Chief Secretary" means the Chief Secretary to Government, Federated Malay States ;

"house" includes dwelling-house, warehouse, office, shop, school, and any other building in which persons are employed ;

"larva" means a mosquito in its first stage after issuing from the egg ;

"owner" means the person for the time being receiving the rent of the land or house in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such land or house were let to a tenant ;

"occupier" means the person in occupation of the land or house in respect of which the word is used or having the charge, management, or control thereof either on his own account or as agent of another person ;

"the Board" means, in respect of any Board of Health area, the Board of Health appointed under the provisions of Section 3 to exercise control within such area.

Appointment of Boards of Health.

3. (i) The Resident of a State may from time to time, with the approval of the Chief Secretary, by notification in the *Gazette* declare any area within such State to be a Board of Health area for the purposes of this Enactment.

(ii) The Resident of a State may from time to time by notification in the *Gazette* appoint Boards of Health, consisting of such public servants and other persons as he may nominate, to exercise control within the area mentioned in such appointment over all matters in respect of which power is given to them by this Enactment and may appoint any member of a Board of Health to be the Chairman thereof. Every such appointment shall cease and determine at the expiration of the year in respect of which the same is made.

(iii) The Resident of a State may also, with the approval of the Chief Secretary, appoint Secretaries, Inspectors, and such other officers as may be necessary for the purposes of this Enactment; the appointment of every such Secretary and Inspector shall be notified in the *Gazette*.

(iv) Any declaration or appointment made under this section may from time to time in like manner be added to, varied, or revoked.

Power of entry and inspection.

4. (i) The Board or any person authorized by it, either generally or specially, in that behalf in writing shall have power, within the area subject to its control, to enter at all reasonable hours in the daytime, with or without assistants and servants, upon any land and into any house and to remain there so long as may be reasonably necessary for the purposes of inspecting and examining, and may inspect and examine, such land or house in order to ascertain whether such land or house or anything upon or in the same is in a condition favourable to the existence of propagation of mosquitoes; provided that there shall be no right of entry into any house under this section without twenty-four hours' previous notice to the occupier (if any) thereof.

(ii) The owner and occupier of any land and, subject to due notice being given, the owner and occupier of any house shall permit the Board and any person authorized as aforesaid to have access thereto for the purposes in this section specified and shall supply to the Board or such person all such information as may be requested by it or him and may be reasonably necessary for the said purposes.

General power to order action.

5. If on or as a result of any inspection or examination under Section 4 it shall appear to the Board that any land or house or anything upon or in the same is in a condition favourable to the existence or propagation of mosquitoes, the Board may by order in writing addressed to the owner or occupier of such land or house direct him to take, within a time to be stated in the order, such measures as may in the said order be specified for treating, destroying, removing, or otherwise dealing with anything upon or in such land or house with a view to the bringing of such land or house into a condition not favourable to the existence or propagation of mosquitoes.

Power to order draining and levelling of land and to prohibit standing water.

6. The Board may at any time by order in writing addressed to the owner or occupier of any land, situate within the area subject to its control, and stating the time within which the action required by the order is to be taken direct him

(*a*) to make in the land such drains as shall, in the opinion of the Board, be necessary for effectually draining such land and shall be described in the order;

(*b*) to fill up inequalities in the surface of the land and so to adjust the surface or raise the level thereof that

(1) all surface water shall flow without obstruction into the drains and

(2) the surface of the land shall be free from swamp ;

(*c*) to remove from the land such standing water, whether in pools or ponds, naturally or artificially formed, or in vessels or receptacles, as may be specified in the order and thereafter to keep the land free from standing water to the extent required by the order.

Power to order screening of tanks and vessels in houses.

7. (i) The Board may at any time by order in writing addressed to the occupier of any house, situate within the area subject to its control, direct him to screen, within a time to be stated in the order, and to keep continuously and effectively screened with wire netting impassable by mosquitoes or with other material such cisterns, tanks, and other vessels and receptacles for water in or appertaining to the said house as shall be described or referred to in the order.

(ii) In the case of a house having no occupier an order under sub-section (i) may be addressed to the owner thereof as if he were the occupier.

Enforcement of order.

8. (i) If any owner or occupier of land or a house on whom an order under the provisions of Section 5, Section 6, or Section 7 has been served shall fail to comply therewith within such time as may be stated in the order for the performance of the acts thereby required to be done or shall otherwise contravene the order, the Board or any person authorized by it, either generally or specially, in that behalf in writing may enter upon or into the land or house to which the order refers and may cause to enter upon or into the same such persons with such apparatus and things as may be necessary and may proceed to perform and do thereon or therein all acts and things required by the said order to be performed or done, and the cost thereof shall be recoverable from the said owner or occupier by the Board.

(ii) Nothing in this section contained shall affect any liability of any person to prosecution and punishment under Section 9.

Penalty for wilful default.

9. If any owner or occupier of land or a house on whom an order under the provisions of Section 5, Section 6, or Section 7 has been served shall wilfully neglect to comply therewith within the time therein stated or shall otherwise contravene such order, he shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred dollars ; provided that no person shall be punishable under this section for neglect to comply with any order in respect whereof he shall have made an application to the Chairman of the Board under Section 11 unless such order shall after due enquiry have been confirmed by the Resident.

Power of Board to take preventive measures.

10. The Board or any person authorized by it, either generally or specially, in that behalf in writing may at all times, within the area subject to its control, take such measures as are reasonably necessary

(*a*) to destroy mosquito larvæ wherever found ;

(*b*) to bring any water into a condition unfavourable to the existence or propagation of mosquitoes ;

(*c*) to fill with concrete or otherwise treat holes or hollows in trees which hold, or are likely to hold, water.

Application to Resident against order or action of the Board.

11. (i) If any owner or occupier of land or of a house is of opinion that any order affecting such land or house made by the Board under the provisions of this Enactment or anything proposed to be done on or in such land or house by the Board is unreasonable or unnecessary, he may make an application in the matter, personally or in writing, to the Chairman of the Board who thereupon shall cause the execution of the order or the doing of the thing, as the case may be, to be suspended and shall submit such application to the Resident of the State in which such land or house is situate, and the Resident, after such enquiry as he may deem necessary, may in his discretion confirm, vary, or rescind the order or direct that the thing be proceeded with, varied, or abandoned, as the case may be, or make any order which the Board is competent to make under this Enactment.

(ii) In any case where the Board, after an application has been submitted to the Resident under sub-section (i), proceeds, by direction of the Resident, with the doing of the thing which was the subject of the application, the cost thereof shall, if the Resident so directs, be borne by the owner or occupier by whom the application was made and shall in such case be recoverable from him by the Board.

No compensation.

12. No person shall be entitled to compensation for any expense incurred or damage occasioned by any order given or act done in pursuance of the provisions of this Enactment or any rule thereunder, unless such damage shall have been occasioned maliciously and without reasonable cause.

Persons unable to meet necessary expenditure.

13. If it appear to the Board after due enquiry that any person has not the means to meet the necessary expenses of doing anything required to be done by him under this Enactment, such necessary expenses may be met from public funds.

Imposition of a rate.

14. (i) For the purpose of meeting or recouping any expenditure that may be incurred in respect of the operations of any Board of Health within the area subject to its control, the Resident of the State in which such area is situate, with the approval of the Chief Secretary, may in any year, by notification in the *Gazette*, impose in respect of the next following year, calculated from January to December inclusive, a rate upon all lands and houses within such area as aforesaid and within such additional area (if any) as may appear to the Chief Secretary to be benefited or to be likely to be benefited by the said operations. The area within which such rate is imposed shall be specified in the notification imposing it.

(ii) Such rate shall not exceed three per centum of the annual value of the lands and houses upon which it is imposed and shall be payable by half-yearly instalments in advance without demand by the owners of such lands or houses in the months of January and July in each year.

(iii) The Resident of a State in which any such rate is imposed may exempt from payment thereof

any house used exclusively as a place for religious worship ;

any public burial or burning ground ;

any house used exclusively for a public school or for any charitable purpose ;

any land or house belonging to or rented by the Ruler of the State or the Government ;

any land or house whereof the annual value is less than ten dollars if the same be the sole rateable property of the owner.

(iv) The said annual value shall be calculated and the said rate shall be assessed in the manner prescribed by Sections 18 to 25, inclusive, of "The Sanitary Boards Enactment, 1916," and the provisions of the said sections and of Sections 26 to 45, inclusive, of the said Enactment shall apply in respect of the said rate as if such rate were a rate imposed under Section 12 of the said Enactment.

(v) Within any area subject to the control of a Sanitary Board in respect of the matters provided for by "The Sanitary Boards Enactment, 1916," the said rate may, if the Resident of the State in which such area is situate by notification in the *Gazette* so directs, be assessed and collected by such Sanitary Board as if the said rate were a rate imposed under Section 12 of the said Enactment ; in absence of such direction and in areas not subject to the control of a Sanitary Board the said rate shall, in respect of each several area, be assessed and collected by the Board of Health appointed under this Enactment to exercise control therein, and in such case the expressions "the Board," "the Chairman," and "the Sanitary Board area" in the sections of the said Enactment hereinbefore referred to shall for the purpose of the application of the said sections to the said rate mean the said Board of Health, the Chairman thereof and the area subject to the control thereof, respectively.

(vi) The proceeds of any rate imposed under this Enactment shall be credited to the public revenue.

How the Board acts.

15. Any entry or inspection under Section 4 may be performed, any order made or authority given by the Board under this Enactment may be signed, and any proceedings authorized by this Enactment to be taken by the Board may be instituted, by one member of the Board or by any greater number of the members and shall in such case be deemed to be performed, signed, or instituted, as the case may be, by the Board. In other matters the number of members of the Board required to participate in any action of the Board shall be such as may be prescribed by rule under Section 16.

Rules.

16. (i) The Chief Secretary may from time to time make rules for preventing, reducing, or dealing with the occurrence of malaria in the Federated Malay States. Such rules may prescribe the powers to be exercised and the duties to be performed by Boards of Health appointed under this Enactment in addition to any powers and duties conferred and imposed on such Boards by this Enactment and may prescribe the manner of such exercise and performance

and may provide generally for giving effect to the provisions of this Enactment.

(ii) All rules made under this section shall be published in the *Gazette* and shall thereupon have the force of law.

(iii) Any person contravening the provisions of any rule made and published under this section shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred dollars.

Service of orders.

17. (i) When any order is required by this Enactment to be served on the owner or occupier of any land or house, such order addressed to the owner or occupier may be served in manner following—that is to say,

(*a*) if the owner or occupier of such land or house be within the State wherein such land or house is situate, the order may be delivered to him or left with some adult member of his family (other than a servant) residing with him within such State ;

(*b*) if the order cannot be served in the manner described in clause (*a*) or if the owner or occupier be not resident within the State wherein the land or house is situate, it may be sent by registered post addressed to him at his residence in any part of the Federated Malay States or in the Colony ;

(*c*) if the order cannot be served in the manner described in clause (*a*) or clause (*b*) or if there be no known owner or occupier of such land or house, the order may be put up on some conspicuous place on the said land or house.

(ii) It shall not be necessary in any such order to name the owner or occupier if the land or house to which the order relates is therein referred to.

(iii) Every such order shall be in the English language and also, if the person for whom it is intended be an Asiatic not known to understand the English language, in such other language as may in the opinion of the person signing the order be likely to render it intelligible to such Asiatic ; provided that no order shall be deemed to be bad or insufficient by reason merely of the language wherein the same is rendered.

Public servants.

18. Members of the Board doing any act or thing under the provisions of this Enactment and persons acting under and within the scope of authority given to them by the Board in pursuance of the provisions of this Enactment shall be deemed to be public servants within the meaning of the Penal Code.

General penalty.

19. Every person who shall commit any breach of the provisions of this Enactment for the breach whereof no penalty is otherwise expressly provided shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred dollars.

Proceedings in Court to be authorized by Board.

20. No proceedings shall be instituted in any Court against any person under any provision of this Enactment except with the written authority of the Board.

Provisions regarding actions.

21. (i) No action shall be brought against any person for anything done, or *bonâ fide* intended to be done, in the exercise or supposed

exercise of the powers given by this Enactment or by any rules made thereunder

(*a*) without giving to such person one month's previous notice in writing of the intended action and of the cause thereof ;

(*b*) after the expiration of three months from the date of the accrual of the cause of action ;

(*c*) after tender of sufficient amends.

(ii) In every action so brought it shall be expressly alleged that the defendant acted either maliciously or negligently and without reasonable or probable cause, and if at the trial the plaintiff shall fail to prove such allegation judgment shall be given for the defendant.

(iii) Though judgment shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Court, before which the action is tried, shall certify its approbation of the action.

ENACTMENT NO. 17 OF 1917.

An Enactment to provide for the preservation of Coconut Palms.

ARTHUR YOUNG,
President of the Federal Council.

[8th August, 1917.
10th August, 1917.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as "The Coconut Palms Preservation Enactment, 1917," and shall come into force on the publication thereof in the *Gazette*.

(ii) Upon the coming into force of this Enactment the Enactment specified in the schedule shall be repealed.

No coconut palm to be destroyed without sanction.

2. Subject to the provisions of Section 15 of "The Agricultural Pests Enactment, 1913," no person shall intentionally destroy any living coconut palm, unless

(*a*) he be acting in pursuance of a lawful order given by a public officer under the provisions of any Enactment for the time being in force, or

(*b*) he shall first have obtained sanction in writing in that behalf from the Collector or Assistant Collector having authority under "The Land Enactment, 1911," in the place where such coconut palm is situate or from an officer authorized by the Resident or by such Collector to give such sanction.

Penalty.

3. Every person who shall act in contravention of the provisions of Section 2 shall be guilty of an offence and liable on conviction to a fine not exceeding twenty dollars in respect of every coconut palm which he shall have unlawfully destroyed.

Presumption against occupier.

4. Where any coconut palm shall have been destroyed in contravention of the provisions of Section 2, it shall be presumed until the contrary be proved that such coconut palm was destroyed by the person having actual charge of the land where the same was situate at the time of its destruction.

Access to lands.

5. All District Officers and all officers appointed under "The Land Enactment, 1911," or under "The Agricultural Pests Enactment, 1913," shall within the areas over which their powers respectively extend have access at all reasonable hours into and upon any land whereon any coconut palm is situate for the purpose of inspecting such coconut palm.

SCHEDULE.

ENACTMENT REPEALED.

State.	No. and year.	Short title.
Negri Sembilan	2 of 1917	The Coconut Palms Preservation Enactment, 1917

ENACTMENT NO. 20 OF 1917.

Amended by Fed. E. 3 of 1918.

An Enactment to consolidate and amend the law relating to Companies.

ARTHUR YOUNG,
President of the Federal Council.

[6th December, 1917.
1st April, 1918.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

PRELIMINARY.

Short title and commencement.

1. This Enactment may be cited as " The Companies Enactment, 1917," and shall come into force on the 1st day of April, 1918.

Repeal and savings.

2. (i) The Enactments specified in Schedule A are hereby repealed to the extent specified in the said schedule :

Provided that the repeal shall not affect

(*a*) the incorporation of any company registered under any Enactment hereby repealed ; nor

(*b*) Table A in the first schedule annexed to the Companies Enactments, 1897, or any part thereof, either as originally contained in that schedule or as altered in pursuance of Section 95 of those Enactments, so far as the same applies to any company existing at the commencement of this Enactment.

(ii) The mention of particular matters in this section, or in any other section of this Enactment, shall not prejudice the general application of Section 3 of the General Clauses Enactments, 1897 (Selangor 1896), with regard to the effect of repeals.

Interpretation.

3. In this Enactment unless there is something repugnant in the subject or context :

" Existing Company " means a company formed and registered under the " Companies Enactment, 1897," of any of the Federated Malay States.

" Company " means a company formed and registered under this Enactment or an existing company.

" Articles " means the articles of association of a company, as originally framed or as altered by special resolution, including, so far as they apply to the company, the regulations contained, as the case may be, in Table A in the first schedule annexed to the Companies Enactments, 1897, or in that table as altered in

pursuance of Section 95 of those Enactments, or in Table A in Schedule B.

"Memorandum" means the memorandum of association of a company, as originally framed or as altered in pursuance of the provisions of this Enactment.

"Document" includes summons, notice, order, and other legal process, and registers.

"Share" means share in the share capital of the company, and includes stock except where a distinction between stock and shares is expressed or implied.

"Debenture" includes debenture stock.

"Books and papers" and "books or papers" include accounts, deeds, writings, and documents.

"The Registrar" means the Registrar or other officer performing under this Enactment the duty of registration of companies.

"The Court" used in relation to a company means the Supreme Court, and includes a Judicial Commissioner.

"General Rules" means general rules made under this Enactment, and includes forms.

"Prescribed" means, as respects the provisions of this Enactment relating to the winding-up of companies, prescribed by general rules, and as respects the other provisions of this Enactment, prescribed by the Chief Secretary.

"Director" includes any person occupying the position of director by whatever name called.

"Chief Secretary" means the Chief Secretary to Government, Federated Malay States.

"Act of Parliament" means an Act of the Imperial Parliament of the United Kingdom.

"Royal Charter" and "Letters Patent" mean, respectively, a Charter and Letters Patent of His Britannic Majesty.

"Prospectus" means any prospectus, notice, circular, advertisement, or other invitation, offering to the public for subscription or purchase any shares or debentures of a company.

PART I.

CONSTITUTION AND INCORPORATION.

Prohibition of Large Partnerships.

Prohibition of partnerships exceeding certain numbers.

4. (i) No company, association, or partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a company under this Enactment, or is formed in pursuance of some other Enactment, or by Royal Charter or Letters Patent.

(ii) No company, association, or partnership consisting of more than twenty persons, other than an association of miners working on the Chinese "hun" system, shall be formed for the purpose of carrying on any other business that has for its object the acquisition

of gain by the company, association, or partnership, or by the individual members thereof, unless it is registered as a company under this Enactment, or is formed in pursuance of some other Enactment, or by Royal Charter or Letters Patent.

MEMORANDUM OF ASSOCIATION.

Mode of forming incorporated company.

5. Any seven or more persons (or, where the company to be formed will be a private company within the meaning of this Enactment, any two or more persons) associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Enactment in respect of registration, form an incorporated company, with or without limited liability—that is to say, either

(*a*) a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them (in this Enactment termed a company limited by shares) ;

(*b*) a company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up (in this Enactment termed a company limited by guarantee) ; or

(*c*) a company not having any limit on the liability of its members (in this Enactment termed an unlimited company).

Memorandum of company limited by shares.

6. (i) In the case of a company limited by shares the memorandum shall state

(*a*) the name of the company, with "Limited" as the last word in its name ;

(*b*) the State, being one of the Federated Malay States, in which the registered office of the company is to be situate ;

(*c*) the objects of the company ;

(*d*) that the liability of the members is limited ;

(*e*) the amount of the share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount.

(ii) No subscriber of the memorandum may take less than one share.

(iii) Each subscriber shall write opposite to his name the number of shares he takes.

Memorandum of company limited by guarantee.

7. (i) In the case of a company limited by guarantee the memorandum shall state

(*a*) the name of the company, with "Limited" as the last word in its name ;

(*b*) the State, being one of the Federated Malay States, in which the registered office of the company is to be situate ;

(*c*) the objects of the company ;

(*d*) that the liability of the members is limited ;

(*e*) that each member undertakes to contribute to the assets of the company in the event of the same being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges, and expenses of winding-up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(ii) If the company has a share capital

(*a*) the memorandum shall also state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount ;

(*b*) no subscriber of the memorandum may take less than one share ;

(*c*) each subscriber shall write opposite to his name the number of shares he takes.

Memorandum of unlimited company.

8. (i) In the case of an unlimited company the memorandum shall state

(*a*) the name of the company ;

(*b*) the State, being one of the Federated Malay States, in which the registered office of the company is to be situate ;

(*c*) the objects of the company.

(ii) If the company has a share capital

(*a*) no subscriber of the memorandum may take less than one share ;

(*b*) each subscriber shall write opposite to his name the number of shares he takes.

Signature of memorandum.

9. The memorandum shall bear the same stamp as if it were a deed, and shall be signed by each subscriber in the presence of at least one witness who shall attest the signature.

Restriction on alteration of memorandum.

10. A company may not alter the conditions contained in its memorandum except in the cases and in the mode and to the extent for which express provision is made in this Enactment.

Name of company and change of name.

11. (i) A company may not be registered by a name identical with that by which a company in existence is already registered, or so nearly resembling that name as to be calculated to deceive, except in the case where the company in existence is in the course of being dissolved and signifies its consent in such manner as the Registrar requires.

(ii) Any company which, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a company in existence is previously registered, or so nearly resembling it as to be calculated to deceive, may, with the sanction of the Registrar, change its name.

(iii) Any company may, by special resolution and with the approval of the Chief Secretary signified in writing, change its name.

(iv) Where a company changes its name the Registrar shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case.

(v) The change of name shall not affect any rights or obligations of the company or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

Alteration of objects of company.

12. (i) Subject to the provisions of this section a company may, by special resolution, alter the provisions of its memorandum so as to change the place of the registered office from one of the Federated Malay States to another, or, with respect to the objects of the company, so far as may be required to enable it

(*a*) to carry on its business more economically or more efficiently ; or

(*b*) to attain its main purpose by new or improved means ; or

(*c*) to enlarge or change the local area of its operations ; or

(*d*) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company ; or

(*e*) to restrict or abandon any of the objects specified in the memorandum.

(ii) The alteration shall not take effect until and except in so far as it is confirmed by the Court on petition.

(iii) Before confirming the alteration the Court must be satisfied

(*a*) that sufficient notice has been given to every holder of debentures of the company, and to any persons or class of persons whose interests will, in the opinion of the Court, be affected by the alteration ; and

(*b*) that, with respect to every creditor who in the opinion of the Court is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the Court :

Provided that the Court may, in the case of any person or class, for special reasons, dispense with the notice required by this section.

(iv) The Court may make an order confirming the alteration either wholly or in part, and on such terms and conditions as it thinks fit, and may make such order as to costs as it thinks proper.

(v) The Court shall, in exercising its discretion under this section, have regard to the rights and interests of the members of the company or of any class of them, as well as to the rights and interests of the creditors, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members ; and may give such directions and make such orders as it may think

expedient for facilitating or carrying into effect any such arrangement :

Provided that no part of the capital of the company may be expended in any such purchase.

(vi) A certified copy of the order confirming the alteration, together with a printed copy of the memorandum as altered, shall, within fifteen days from the date of the order, be delivered by the company to the Registrar, and he shall register the same, and shall certify the registration under his hand, and the certificate shall be conclusive evidence that all the requirements of this Enactment with respect to the alteration and the confirmation thereof have been complied with, and thenceforth the memorandum so altered shall be the memorandum of the company.

(vii) The Court may by order at any time extend the time for the delivery of documents to the Registrar under this section for such period as the Court may think proper.

(viii) Any company which makes default in delivering to the Registrar any document required by this section to be delivered to him shall be liable to a fine not exceeding one hundred dollars for every day during which it is in default.

Articles of Association.

Registration of articles.

13. (i) Articles of association signed by the subscribers to the memorandum and prescribing regulations for the company may, in the case of a company limited by shares, and shall, in the case of a company limited by guarantee or unlimited, be registered with the memorandum.

(ii) Articles of association may adopt all or any of the regulations contained in Table A in Schedule B.

(iii) In the case of an unlimited company or a company limited by guarantee the articles, if the company has a share capital, shall state the amount of share capital with which the company proposes to be registered.

(iv) In the case of an unlimited company or a company limited by guarantee, if the company has not a share capital, the articles shall state the number of members with which the company proposes to be registered, for the purpose of enabling the Registrar to determine the fees payable on registration.

Application of Table A.

14. In the case of a company limited by shares and registered after the commencement of this Enactment, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations in Table A in Schedule B, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

Form and signature of articles.

15. Articles shall

(*a*) be printed ;

(*b*) be divided into paragraphs numbered consecutively ;

(*c*) bear the same stamp as if they were contained in a deed ; and

(*d*) be signed by each subscriber of the memorandum of association in the presence of at least one witness who shall attest the signature.

Alteration of articles by special resolution.

16. (i) Subject to the provisions of this Enactment, and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles ; and any alteration or addition so made shall be as valid as if originally contained in the articles and be subject in like manner to alteration by special resolution.

(ii) The power of altering articles under this section shall, in the case of an unlimited company formed and registered under the "Companies Enactment, 1897," of any of the Federated Malay States, extend to altering any regulation relating to the amount of capital or its distribution into shares, notwithstanding that the regulations are contained in the memorandum.

General Provisions.

Effect of memorandum and articles.

17. (i) The memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed and sealed by each member, and contained covenants on the part of each member, his executors and administrators, to observe all the provisions of the memorandum and of the articles, subject to the provisions of this Enactment.

(ii) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company.

Registration of memorandum and articles.

18. The memorandum and the articles, if any, shall be delivered to the Registrar, and he shall retain and register them.

Effect of registration.

19. (i) On the registration of the memorandum of a company the Registrar shall certify under his hand that the company is incorporated, and in the case of a limited company that the company is limited.

(ii) From the date of incorporation mentioned in the certificate of incorporation the subscribers of the memorandum, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Enactment.

Conclusiveness of certificate of incorporation.

20. (i) A certificate of incorporation given by the Registrar in respect of any association shall be conclusive evidence that all the requirements of this Enactment in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association is a company authorized to be registered and duly registered under this Enactment.

(ii) A statutory declaration by an advocate and solicitor of the Supreme Court engaged in the formation of the company, or by a

person named in the articles as a director or secretary of the company, of compliance with all or any of the said requirements shall be produced to the Registrar, and the Registrar may accept such declaration as sufficient evidence of compliance.

Copies of memorandum and articles to be given to members.

21. (i) Every company shall send to every member, at his request, and on payment of one dollar or such less sum as the company may prescribe, a copy of the memorandum and of the articles, if any.

(ii) Any company which makes default in complying with the requirements of this section shall be liable for each offence to a fine of ten dollars.

Associations not for Profit.

Restrictions on charitable and other companies holding land.

22. A company formed for the purpose of promoting art, science, religion, charity, or any other like object, not involving the acquisition of gain by the company or by its individual members, shall not, without the license of the Chief Secretary, hold more than two acres of land ; but the Chief Secretary may by license empower any such company to hold lands in such quantity, and subject to such conditions, as he may think fit.

Power to dispense with "Limited" in name of charitable and other companies.

23. (i) Where it is proved to the satisfaction of the Chief Secretary that an association about to be formed as a limited company is to be formed for promoting commerce, art, science, religion, charity, or any other useful object, and intends to apply its profits or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Chief Secretary may by license direct that the association be registered as a company with limited liability, without the addition of the word "Limited" to its name, and the association may be registered accordingly.

(ii) A license by the Chief Secretary under this section may be granted on such conditions and subject to such regulations as the Chief Secretary thinks fit to impose, and those conditions and regulations shall be binding on the association and shall, if the Chief Secretary so direct, be inserted in the memorandum and articles, or in one of those documents.

(iii) The association shall on registration enjoy all the privileges of limited companies and be subject to all their obligations, except those of using the word "Limited" as any part of its name, and of publishing its name, and of sending lists of members and directors and managers to the Registrar but shall within three weeks of its first or only ordinary general meeting in each year file with the Registrar a receipts and disbursement account, or a balance sheet, audited by auditors approved by the Chief Secretary.

(iv) A license under this section may at any time be revoked by the Chief Secretary, and upon revocation the Registrar shall enter the word "Limited" at the end of the name of the association upon the register, and the association shall cease to enjoy the exemption and privileges granted by this section :

Provided that before the license is so revoked an opportunity shall be afforded to the association of being heard in opposition to the revocation.

Companies Limited by Guarantee.

Provision as to companies limited by guarantee.

24. (i) In the case of a company limited by guarantee and not having a share capital, every provision in the memorandum or articles or in any resolution of the company purporting to give to any person a right to participate in the divisible profits of the company otherwise than as a member shall be void.

(ii) For the purpose of the provisions of this Enactment relating to the memorandum of a company limited by guarantee and of this section, every provision in the memorandum or articles, or in any resolution of any company limited by guarantee, purporting to divide the undertaking of the company into shares or interests shall be treated as a provision for a share capital, notwithstanding that the nominal amount or number of the shares or interests is not specified thereby.

PART II.

DISTRIBUTION AND REDUCTION OF SHARE CAPITAL, REGISTRATION OF UNLIMITED COMPANY AS LIMITED, AND UNLIMITED LIABILITY OF DIRECTORS.

Distribution of Share Capital.

Nature of shares.

25. (i) The shares or other interest of any member in a company shall be movable property, transferable in manner provided by the articles of the company.

(ii) Each share in a company having a share capital shall be distinguished by its appropriate number.

Certificate of shares or stock.

26. A certificate under the common seal of the company specifying any shares or stock held by any member shall be *primâ facie* evidence of the title of the member to the shares or stock.

Definition of member.

27. (i) The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members.

(ii) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company.

Register of members.

28. (i) Every company shall keep in one or more books a register of its members, and enter therein the following particulars :

(*a*) the names and addresses, and the occupations, if any, of the members, and in the case of a company having a share capital a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member ;

(*b*) the date at which each person was entered in the register as a member ;

(*c*) the date at which any person ceased to be a member.

(ii) Any company which fails to comply with this section shall be liable to a fine not exceeding fifty dollars for every day during which

the default continues ; and any director or manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

Annual list of members and summary.

29. (i) Every company having a share capital shall once at least in every year make a list of all persons who, on the fourteenth day after the first or only ordinary general meeting in the year, are members of the company, and of all persons who have ceased to be members since the date of the last return or, in the case of the first return, of the incorporation of the company.

(ii) The list shall state the names, addresses, and occupations, if any, of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return or, in the case of the first return, of the incorporation of the company by persons who are still members and have ceased to be members respectively and the dates of registration of the transfers, and shall contain a summary distinguishing between shares issued for cash and shares issued as fully or partly paid up otherwise than in cash, and specifying the following particulars :

(*a*) the amount of the share capital of the company, and the number of shares into which it is divided ;

(*b*) the number of shares issued from the commencement of the company up to the date of the return ;

(*c*) the amount called up on each share ;

(*d*) the total amount of calls received ;

(*e*) the total amount of calls unpaid ;

(*f*) the total amount of the sums, if any, paid by way of commission in respect of any shares or debentures, or allowed by way of discount in respect of any debentures, since the date of the last return ;

(*g*) the total number of shares forfeited ;

(*h*) the total amount of shares or stock for which share warrants are outstanding at the date of the return ;

(*i*) the total amount of the share warrants issued and surrendered respectively since the date of the last return ;

(*j*) the number of shares or amount of stock comprised in each share warrant ;

(*k*) the names and addresses of the persons who at the date of the return are the directors of the company ; and

(*l*) the total amount of debt due from the company in respect of all mortgages and charges which are required to be registered with the Registrar under this Enactment, or which would have been required so to be registered if created after the commencement of this Enactment.

(iii) The summary shall also, except where it is made after the statutory meeting or where the company is a private company, include a statement, made up to such date as may be specified in the statement, in the form of a balance sheet, audited by the

company's auditors, and containing a summary of its share capital, its liabilities and its assets, giving such particulars as will disclose the general nature of those liabilities and assets, and how the values of the fixed assets have been arrived at, but the balance sheet need not include a statement of profit and loss.

(iv) The above list and summary shall be contained in a separate part of the register of members, and shall be completed within seven days after the fourteenth day aforesaid, and the company shall forthwith forward to the Registrar a copy signed by the manager or secretary of the company.

(v) Any company which makes default in complying with the requirements of this section shall be liable to a fine not exceeding fifty dollars for every day during which the default continues, and any director or manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

Trusts not to be entered on register.

30. No notice of any trust, expressed, implied, or constructive, shall be entered on the register of members, or be receivable by the Registrar.

Registration of transfer at request of transferor.

31. On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee.

Transfer by personal representative.

32. A transfer of the share or other interest of a deceased member of a company made by his personal representative shall, although the personal representative is not himself a member, be as valid as if he had been a member at the time of the execution of the instrument of transfer.

Inspection of register by members.

33. (i) The register of members, commencing from the date of the registration of the company, shall be kept at the registered office of the company, and, except when closed under the provisions of this Enactment, shall during business hours (subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member gratis, and to the inspection of any other person on payment of fifty cents, or such less sum as the company may prescribe, for each inspection.

(ii) Any member or other person may require a copy of the register, or of any part thereof, or of the list and summary required by this Enactment, or any part thereof, on payment of twenty-five cents, or such less sum as the company may prescribe, for every hundred words or fractional part thereof required to be copied.

(iii) If any inspection or copy required under this section is refused, the company shall be liable for each refusal to a fine not exceeding twenty dollars, and to a further fine not exceeding twenty dollars for every day during which the refusal continues, and any director or manager of the company who knowingly authorizes or permits the refusal shall be liable to the like penalty ; and a Judicial

Commissioner may by order compel an immediate inspection of the register.

Power to close register.

34. A company may on giving notice by advertisement in some newspaper circulating in the State in which the registered office of the company is situate and in the *Gazette* close the register of members for any time or times not exceeding in the whole thirty days in each year.

Power of Court to rectify register.

35. (i) If

(*a*) the name of any person is, without sufficient cause, entered in or omitted from the register of members of a company ; or

(*b*) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member ;

the person aggrieved, or any member of the company, or the company may apply to the Court for rectification of the register.

(ii) The application may be made by motion in the Court, or by application to a Judicial Commissioner sitting in chambers, or in such other manner as the Court may direct.

(iii) The Court may either refuse the application, with or without costs to be paid by the applicant, or may, if satisfied of the justice of the case, make an order for rectification of the register, and may direct the company to pay all the costs of such application and any damages which the party aggrieved may have sustained.

(iv) On any application under this section the Court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand ; and generally may decide any question necessary or expedient to be decided for rectification of the register.

(v) In the case of a company required by this Enactment to send a list of its members to the Registrar, the Court, when making an order for rectification of the register, shall by its order direct notice of the rectification to be given to the Registrar.

Register to be evidence.

36. The register of members shall be *primâ facie* evidence of any matters by this Enactment directed or authorized to be inserted therein.

Issue and effect of share warrants to bearer.

37. (i) A company limited by shares, if so authorized by its articles, may, with respect to any fully paid-up shares or to stock, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares or stock therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the shares or stock included in the warrant, in this Enactment termed a share warrant.

(ii) A share warrant shall entitle the bearer thereof to the shares or stock therein specified, and the shares or stock may be transferred by delivery of the warrant.

(iii) The bearer of a share warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members; and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register the name of a bearer of a share warrant in respect of the shares or stock therein specified without the warrant being surrendered and cancelled.

(iv) The bearer of a share warrant may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Enactment, either to the full extent or for any purposes defined in the articles; except that he shall not be qualified in respect of the shares or stock specified in the warrant for being a director or manager of the company, in cases where such a qualification is required by the articles.

(v) On the issue of a share warrant the company shall strike out of its register of members the name of the member then entered therein as holding the shares or stock specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars:

(*a*) The fact of the issue of the warrant;

(*b*) A statement of the shares or stock included in the warrant distinguishing each share by its number; and

(*c*) The date of the issue of the warrant.

(vi) Until the warrant is surrendered, the above particulars shall be deemed to be the particulars required by this Enactment to be entered in the register of members; and, on the surrender, the date of the surrender must be entered as if it were the date at which a person ceased to be a member.

Forgery, personation, unlawfully engraving plates, etc.

38. (i) Any person who

(*a*) with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any share warrant or coupon, or any document purporting to be a share warrant or coupon, issued in pursuance of this Enactment; or

(*b*) by means of any such forged or altered share warrant, coupon, or document, purporting as aforesaid, demands or endeavours to obtain or receive any share or interest in any company under this Enactment, or to receive any dividend or money payable in respect thereof, knowing the warrant, coupon, or document to be forged or altered; or

(*c*) falsely and deceitfully personates any owner of any share or interest in any company, or of any share warrant or coupon, issued in pursuance of this Enactment, and thereby obtains or endeavours to obtain any such share or interest or share warrant or coupon, or receives or endeavours to receive any money due to any such owner, as if the offender were the true and lawful owner,

shall be liable to penal servitude for life or for any term not less than three years.

(ii) Any person who without lawful authority or excuse, proof whereof shall lie on him, engraves or makes on any plate, wood, stone, or other material any share warrant or coupon purporting to be a share warrant or coupon issued or made by any particular company in pursuance of this Enactment, or to be a blank share warrant or coupon so issued or made, or to be a part of such a share warrant or coupon, or uses any such plate, wood, stone, or other material for the making or printing of any such share warrant or coupon, or of any such blank share warrant or coupon, or any part thereof respectively, or knowingly has in his custody or possession any such plate, wood, stone, or other material, shall be liable to penal servitude for any term not exceeding fourteen years and not less than three years.

Power of company to arrange for different amounts being paid on shares.

39. A company if so authorized by its articles may do any one or more of the following things—namely :

(*a*) make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares ;

(*b*) accept from any member who assents thereto the whole or a part of the amount remaining unpaid on any shares held by him although no part of that amount has been called up ;

(*c*) pay dividends in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

Power to return accumulated profits in reduction of paid-up share capital.

40. (i) Any company which has accumulated a sum of undivided profits, which with the consent of the shareholders may be distributed among the shareholders in the form of a dividend or bonus, may, by special resolution, return the same, or any part thereof, to the shareholders in reduction of the paid-up capital of the company, the unpaid capital being thereby increased by a similar amount.

(ii) The resolution shall not take effect until a memorandum, shewing the particulars required by this Enactment in the case of a reduction of share capital, has been produced to and registered by the Registrar, but the other provisions of this Enactment with respect to reduction of share capital shall not apply to a reduction of paid-up share capital under this section.

(iii) On a reduction of paid-up capital in pursuance of this section any shareholder, or any one or more of several joint shareholders, may within one month after the passing of the resolution for the reduction require the company to retain, and the company shall retain accordingly, the whole of the money actually paid on the shares held by him either alone or jointly with any other person, which, in consequence of the reduction, would otherwise be returned to him or them, and thereupon those shares shall, as regards the payment of dividend, be deemed to be paid up to the same extent only as the shares on which payment has been accepted by the shareholders in reduction of paid-up capital.

(iv) The company shall invest and keep invested the money so retained in such securities authorized for investment by trustees as the company may determine, or on fixed deposit in such bank as the directors may determine; and on the money so invested or on so much thereof as from time to time exceeds the amount of calls subsequently made on the shares in respect of which it has been retained, the company shall pay the interest received from time to time on the securities or on the deposits.

(v) The amount retained and invested shall be held to represent the future calls which may be made to replace the share capital so reduced on those shares, whether the amount obtained on sale of the whole or such proportion thereof as represents the amount of any call when made produces more or less than the amount of the call.

(vi) On a reduction of paid-up share capital in pursuance of this section, the powers vested in the directors of making calls on shareholders in respect of the amount unpaid on their shares shall extend to the amount of the unpaid share capital as augmented by the reduction.

(vii) After any reduction of share capital under this section the company shall specify in the annual list of members required by this Enactment the amounts retained at the request of any of the shareholders in pursuance of this section, and shall specify in the statements of accounts laid before any general meeting of the company the amount of undivided profits returned in reduction of paid-up capital under this section.

Power of company limited by shares to alter its share capital.

41. (i) A company limited by shares, if so authorized by its articles, may alter the conditions of its memorandum as follows—that is to say, it may—

(*a*) increase its share capital by the issue of new shares of such amount as it thinks expedient;

(*b*) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;

(*c*) convert all or any of its paid-up shares into stock, and reconvert that stock into paid-up shares of any denomination;

(*d*) subdivide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;

(*e*) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(ii) The powers conferred by this section with respect to subdivision of shares shall be exercised by special resolution.

(iii) Where any alteration has been made under this section in the memorandum of a company, every copy of the memorandum issued

after the date of the alteration shall be in accordance with the alteration.

Any company which makes default in complying with this provision shall be liable to a fine not exceeding ten dollars for each copy in respect of which default is made; and any director or manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

(iv) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Enactment.

Notice to Registrar of consolidation of share capital, conversion of shares into stock, etc.

42. Where a company having a share capital has consolidated and divided its share capital into shares of larger amount than its existing shares, or converted any of its shares into stock, or reconverted stock into shares, it shall give notice to the Registrar of the consolidation, division, conversion, or reconversion, specifying the shares consolidated, divided, or converted, or the stock reconverted, and the Registrar shall record the facts.

Effect of conversion of shares into stock.

43. Where a company having a share capital has converted any of its shares into stock, and given notice of the conversion to the Registrar, all the provisions of this Enactment which are applicable to shares only shall cease as to so much of the share capital as is converted into stock; and the register of members of the company and the list of members to be forwarded to the Registrar, shall shew the amount of stock held by each member instead of the amount of shares and the particulars relating to shares hereinbefore required by this Enactment.

Notice of increase of share capital or of members.

44. (i) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, and where a company not having a share capital has increased the number of its members beyond the registered number, it shall give to the Registrar, in the case of an increase of share capital, within fifteen days after the passing, or in the case of a special resolution the confirmation, of the resolution authorizing the increase, and in the case of an increase of members within fifteen days after the increase was resolved on or took place, notice of the increase of capital or members, and the Registrar shall record the increase.

(ii) Any company which makes default in complying with the requirements of this section shall be liable to a fine not exceeding fifty dollars for every day during which the default continues, and any director or manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

Reorganization of share capital.

45. (i) A company limited by shares may, by special resolution confirmed by an order of the Court, modify the conditions contained in its memorandum so as to reorganize its share capital, whether by the consolidation of shares of different classes or by the division of its shares into shares of different classes; provided that no preference or special privilege attached to or belonging to any class of shares shall be interfered with except by a resolution passed by a majority in number of shareholders of that class holding three-

fourths of the share capital of that class and confirmed at a meeting of shareholders of that class in the same manner as a special resolution of the company is required to be confirmed, and every resolution so passed shall bind all shareholders of the class.

(ii) Where an order is made under this section an office copy thereof shall be filed with the Registrar within seven days after the making of the order, or within such further time as the Court may allow, and the resolution shall not take effect until such a copy has been so filed.

Reduction of Share Capital.

Special resolution for reduction of share capital.

46. (i) Subject to confirmation by the Court, a company limited by shares, if so authorized by its articles, may by special resolution reduce its share capital in any way, and in particular, without prejudice to the generality of the foregoing power, may

(*a*) extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or

(*b*) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets; or

(*c*) either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company,

and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(ii) A special resolution under this section is in this Enactment called a resolution for reducing share capital.

Application to Court for confirming order.

47. Where a company has passed and confirmed a resolution for reducing share capital, it may apply by petition to the Court for an order confirming the reduction.

Addition to name of company of "and reduced."

48. (i) On and from the confirmation by a company of a resolution for reducing share capital, or where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, then on and from the presentation of the petition for confirming the reduction, the company shall add to its name, until such date as the Court may fix, the words "and reduced," as the last words in its name, and those words shall, until that date, be deemed to be part of the name of the company.

(ii) Where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the Court may, if it thinks it expedient, dispense altogether with the addition of the words "and reduced."

Objections by creditors and settlement of list of objecting creditors.

49. (i) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the Court so directs, every creditor of the

company who at the date fixed by the Court is entitled to any debt or claim which, if that date were the commencement of the winding-up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction.

(ii) The Court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction.

(iii) Where a creditor entered on the list whose debt or claim is not discharged or determined does not consent to the reduction, the Court may, if it thinks fit, dispense with the consent of that creditor, on the company securing payment of his debt or claim by appropriating, as the Court may direct, the following amount—that is to say,

(*a*) if the company admits the full amount of his debt or claim or though not admitting it is willing to provide for it, then the full amount of the debt or claim ;

(*b*) if the company does not admit or is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the Court after the like enquiry and adjudication as if the company were being wound up by the Court.

Order confirming reduction.

50. The Court, if satisfied, with respect to every creditor of the company who under this Enactment is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

Registration of order and minute of reduction.

51. (i) The Registrar on production to him of an order of the Court confirming the reduction of the share capital of a company, and the delivery to him of a copy of the order and of a minute, approved by the Court, shewing with respect to the share capital of the company, as altered by the order, the amount of the share capital, the number of shares into which it is to be divided, and the amount of each share and the amount, if any, at the date of the registration deemed to be paid up on each share, shall register the order and minute.

(ii) On the registration, and not before, the resolution for reducing share capital as confirmed by the order so registered shall take effect.

(iii) Notice of the registration shall be published in such manner as the Court may direct.

(iv) The Registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Enactment with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.

Minute to form part of memorandum.

52. (i) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum of the company, and shall be valid and alterable as if it had been originally contained therein ; and shall be embodied in every copy of the memorandum issued after its registration.

(ii) Any company which makes default in complying with the requirements of this section shall be liable to a fine not exceeding ten dollars for each copy in respect of which default is made, and any director or manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

Liability of members in respect of reduced shares.

53. (i) A member of the company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference, if any, between the amount paid, or, as the case may be, the reduced amount, if any, which is to be deemed to have been paid, on the share and the amount of the share as fixed by the minute.

(ii) If any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Enactment with respect to winding-up by the Court, to pay the amount of his debt or claim, then

(*a*) every person who was a member of the company at the date of the registration of the order for reduction and minute, shall be liable to contribute for the payment of that debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before that registration ; and

(*b*) if the company is wound up, the Court, on the application of any such creditor, and proof of his ignorance as aforesaid may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list as if they were ordinary contributories in a winding-up.

(iii) Nothing in this section shall affect the rights of the contributories as among themselves.

Penalty on concealment of name of creditor.

54. Any director, manager, or officer of the company who wilfully conceals the name of any creditor entitled to object to the reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor, and any director or manager of the company who abets any such concealment or misrepresentation as aforesaid, shall be liable to imprisonment for a term which may extend to one year or to fine or to both.

Publication of reasons for reduction.

55. In any case of reduction of share capital, the Court may require the company to publish as the Court directs the reasons for reduction, or such other information in regard thereto as the Court may think expedient with a view to giving proper information to

the public, and, if the Court thinks fit, the causes which led to the reduction.

Increase and reduction of share capital in case of a company limited by guarantee having a share capital.

56. A company limited by guarantee may, if it has a share capital, and is so authorized by its articles, increase or reduce its share capital in the same manner and subject to the same conditions in and subject to which a company limited by shares may increase or reduce its share capital under the provisions of this Enactment.

Registration of Unlimited Company as Limited.

Registration of unlimited company as limited.

57. (i) Subject to the provisions of this section, any company registered as unlimited may register under this Enactment as limited, or any company already registered as a limited company, may re-register under this Enactment, but the registration of an unlimited company as a limited company shall not affect any debts, liabilities, obligations, or contracts incurred or entered into by, to, with, or on behalf of the company before the registration, and those debts, liabilities, obligations, and contracts may be enforced in manner provided by Part VII in the case of a company registered in pursuance of that Part.

(ii) On registration in pursuance of this section the Registrar shall close the former registration of the company, and may dispense with the delivery to him of copies of any documents with copies of which he was furnished on the occasion of the original registration of the company, but, save as aforesaid, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company under this Enactment, and as if the provisions of the Enactment or Enactments under which the company was previously registered and regulated had been contained in different Enactments from those under which the company is registered as a limited company.

Power of unlimited company to provide for reserve share capital on registration.

58. An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Enactment, do either or both of the following things—namely :

(*a*) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares but subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the company being wound up ;

(*b*) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

Reserve Liability of Limited Company.

Reserve liability of limited company.

59. A limited company may by special resolution determine that any portion of its share capital which has not already been called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.

Unlimited Liability of Directors.

Limited company may have directors with unlimited liability.

60. (i) In a limited company the liability of the directors or managers, or of the managing director, may, if so provided by the memorandum, be unlimited.

(ii) In a limited company in which the liability of a director or manager is unlimited, the directors or managers of the company, if any, and the member who proposes a person for election or appointment to the office of director or manager, shall add to that proposal a statement that the liability of the person holding that office will be unlimited, and the promoters, directors, managers, and secretary, if any, of the company, or one of them, shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

(iii) Any director, manager, or proposer who makes default in adding such statement, and any promoter, director, manager, or secretary who makes default in giving such notice, shall be liable to a fine not exceeding one thousand dollars, and shall also be liable for any damage which the person so elected or appointed may sustain from the default, but the liability of the person elected or appointed shall not be affected by the default.

Special resolution of limited company making liability of directors unlimited.

61. (i) A limited company, if so authorized by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors or managers, or of any managing director.

(ii) Upon the confirmation of any such special resolution the provisions thereof shall be as valid as if they had originally been contained in the memorandum; and a copy thereof shall be embodied in or annexed to every copy of the memorandum issued after the confirmation of the resolution.

(iii) Any company which makes default in complying with the requirements of this section shall be liable to a fine not exceeding ten dollars for each copy in respect of which default is made; and any director or manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

PART III.

MANAGEMENT AND ADMINISTRATION.

Office and Name.

Registered office of company.

62. (i) Every company shall register with the Registrar the full address of an office, in this Enactment called the registered office, to which all communications and notices may be addressed.

(ii) Every company shall comply with the requirements of subsection (i) when it files its memorandum of association and as often as there is any change in the situation or address of its registered office.

(iii) Any company which makes default in complying with the requirements of this section shall be liable to a fine not exceeding fifty dollars for every day during which the default continues.

63. (i) Every limited company

Publication of name by a limited company.

(*a*) shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in English characters easily legible ;

(*b*) shall have its name engraven in legible English characters on its seal ;

(*c*) shall have its name mentioned in legible English characters in all notices, advertisements, and other official publications of the company, and in all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts, and letters of credit of the company.

(ii) Any limited company which does not paint or affix, and keep painted or affixed, its name in manner directed by this Enactment shall be liable to a fine not exceeding fifty dollars for every day during which its name is not so kept painted or affixed, and any director or manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

(iii) Any director, manager, or officer of a limited company or any person on its behalf who

(*a*) uses or authorizes the use of any seal purporting to be a seal of the company whereon its name is not so engraved as aforesaid ;

(*b*) issues or authorizes the issue of any notice, advertisement, or other official publication of the company, or signs or authorizes to be signed on behalf of the company any bill of exchange, promissory note, endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt, or letter of credit of the company, wherein its name is not mentioned in manner aforesaid,

shall be liable to a fine not exceeding five hundred dollars, and shall further be personally liable to the holder of any such bill of exchange, promissory note, cheque, or order for money or goods, for the amount thereof, unless the same is duly paid by the company.

Meetings and Proceedings.

64. (i) An ordinary general meeting shall be held once at the least in every calendar year.

Annual general meeting.

(ii) One such meeting shall be held in every calendar year not more than fifteen months after the holding of the last preceding ordinary general meeting, and at such meeting a balance sheet made out as at a date not more than six months before such meeting shall be laid before the company.

(iii) For any default in complying with the provisions of this section the company and every director, manager, secretary, and other officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding five hundred dollars.

(iv) When default has been made in holding a meeting of the company in accordance with the provisions of this section, the Court may, on the application of any member of the company, call or direct the calling of a general meeting of the company.

Statutory meeting of company.

65. (i) Every company limited by shares and registered after the commencement of this Enactment shall, within a period of not less than one month and not more than six months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company which shall be called the statutory meeting and shall be deemed to be the first ordinary general meeting.

(ii) The directors shall, at least seven days before the day on which the statutory meeting is held, forward a report, in this Enactment called "the statutory report," to every member of the company and to every other person entitled under this Enactment to receive it.

(iii) The statutory report shall be certified by not less than two directors of the company, or, where there are less than two directors, by the sole director and manager, and shall state

(*a*) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted ;

(*b*) the total amount of cash received by the company in respect of all the shares allotted, distinguished as aforesaid ;

(*c*) an abstract of the receipts of the company on account of its capital, whether from shares or debentures, and of the payments made thereout, up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company ;

(*d*) the names, addresses, and descriptions of the directors, auditors, managers, if any, and secretary of the company ; and

(*e*) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

(iv) The statutory report shall, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares, and to the receipts and payments of the company on capital account, be certified as correct by the auditors of the company.

(v) The directors shall cause a copy of the statutory report, certified as by this section required, to be filed with the Registrar forthwith after the sending thereof to the members of the company.

(vi) The directors shall cause a list shewing the names, descriptions, and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any members of the company during the continuance of the meeting.

(vii) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company, or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed.

(viii) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

(ix) If a petition is presented to the Court in manner provided by Part IV for winding up the company on the ground of default in filing the statutory report or in holding the statutory meeting, the Court may, instead of directing that the company be wound up, give directions for the statutory report to be filed or a meeting to be held, or make such other order as may be just.

(x) The provisions of this section as to forwarding and filing of the statutory report shall not apply in the case of a private company.

(xi) Subject to the provisions of sub-section (x), any company which makes default in complying with the requirements of sub-section (i) or sub-section (v) shall be liable to a fine not exceeding fifty dollars for every day during which the default continues, and any director or manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

Convening of extraordinary meeting on requisition.

66. (i) Notwithstanding anything contained in the articles of a company, the directors of a company shall, on the requisition of the holders of not less than one-tenth of the issued share capital of the company upon which all calls or other sums then due have been paid, forthwith proceed to convene an extraordinary general meeting of the company.

(ii) The requisition shall state the objects of the meeting, and shall be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more of the requisitionists.

(iii) If the directors do not proceed to cause a meeting to be held within twenty-one days from the date of the requisition being so deposited, the requisitionists, or a majority of them in value, may themselves convene the meeting, but any meeting so convened shall not be held after three months from the date of the deposit.

(iv) If at any such meeting a resolution requiring confirmation at another meeting is passed, the directors shall forthwith convene a further extraordinary general meeting for the purpose of considering the resolution and, if thought fit, of confirming it as a special resolution.

(v) If the directors do not convene the meeting within seven days from the date of the passing of the first resolution, the requisitionists, or a majority of them in value, may themselves convene the meeting.

(vi) Any meeting convened under this section by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors.

Provisions as to meetings and votes.

67. In default of and subject to any regulations in the articles

(*a*) a meeting of a company may be called by seven days' notice in writing, served on every member in manner in which notices are required to be served by Table A in Schedule B ;

(*b*) five members may call a meeting ;

(*c*) any person elected by the members present at a meeting may be chairman thereof ;

(*d*) every member shall have one vote.

Representation of companies at meetings of other companies of which they are members.

68. A company which is a member of another company may, by resolution of the directors, authorize any of its officials or any other person to act as its representative at any meeting of that other company, and the person so authorized shall be entitled to exercise the same powers on behalf of the company which he represents as if he were an individual shareholder of that other company.

Definitions of extraordinary and special resolution.

69. (i) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members entitled to vote as are present in person or by proxy, where proxies are allowed, at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.

(ii) A resolution shall be a special resolution when it has been

(*a*) passed in the manner required for the passing of an extraordinary resolution ; and

(*b*) confirmed by a majority of such members entitled to vote as are present in person or by proxy, when proxies are allowed, at a subsequent general meeting, of which notice has been duly given, and held after an interval of not less than fourteen days, nor more than one month, from the date of the first meeting.

(iii) At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(iv) At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed a poll may be demanded, if demanded by three persons for the time being entitled according to the articles to vote, unless the articles of the company require a demand by such number of such persons, not in any case exceeding five, as may be specified in the articles.

(v) When a poll is demanded in accordance with this section, in computing the majority on the poll reference shall be had to the number of votes to which each member is entitled by the articles of the company.

(vi) For the purposes of this section notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by the articles.

Registration and copies of special resolutions.

70. (i) A copy of every special and extraordinary resolution shall within fifteen days from the confirmation of the special resolution, or from the passing of the extraordinary resolution, as the case may be, be printed and forwarded to the Registrar, who shall record the same.

(ii) Where articles have been registered, a copy of every special resolution for the time being in force shall be embodied in or annexed to every copy of the articles issued after the confirmation of the resolution.

(iii) Where articles have not been registered, a copy of every special resolution shall be forwarded in print to any member at his request on payment of fifty cents, or such less sum as the company may direct.

(iv) Any company which makes default in printing or forwarding a copy of a special or extraordinary resolution to the Registrar shall be liable to a fine not exceeding ten dollars for every day during which the default continues.

(v) Any company which makes default in embodying in or annexing to a copy of its articles or in forwarding in print to a member when required by this section a copy of a special resolution, shall be liable to a fine not exceeding ten dollars for each copy in respect of which default is made.

(vi) Any director or manager of a company who knowingly and wilfully authorizes or permits any default by the company in complying with the requirements of this section shall be liable to the like penalty as is imposed by this section on the company for that default.

Minutes of proceedings of meetings and directors.

71. (i) Every company shall cause minutes of all proceedings of general meetings and, where there are directors or managers, of its directors or managers to be entered in books kept for that purpose.

(ii) Any such minute if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(iii) Until the contrary is proved, every general meeting of the company or meeting of directors or managers in respect of the proceedings whereof minutes have been so made shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had, and all appointments of directors, managers, or liquidators shall be deemed to be valid.

APPOINTMENT, QUALIFICATION, ETC., OF DIRECTORS.

Restrictions on appointment or advertisement of director.

72. (i) A person shall not be capable of being appointed a director of a company by the articles, and shall not be named as a director or proposed director of a company in any prospectus issued by or on behalf of the company, or in any statement in lieu of prospectus filed by or on behalf of a company, unless, before the registration of the articles or the publication of the prospectus, or the filing of the statement in lieu of prospectus, as the case may be, he has by himself or by his agent authorized in writing

(*a*) signed and filed with the Registrar a consent in writing to act as such director; and

(*b*) either signed the memorandum for a number of shares not less than his qualification, if any, or signed and filed with the Registrar a contract in writing to take from the company and pay for his qualification shares, if any.

(ii) On the application for registration of the memorandum and articles of a company the applicant shall deliver to the Registrar a list of the persons who have consented to be directors of the company, and, if this list contains the name of any person who has not so consented, the applicant shall be liable to a fine not exceeding five hundred dollars.

(iii) This section shall not apply to a private company, nor to a prospectus issued by or on behalf of a company after the expiration of one year from the date at which the company is entitled to commence business.

Qualification of director.

73. (i) Without prejudice to the restrictions imposed by Section 72, every director who is by the regulations of the company required to hold a specified share qualification, and who is not already qualified, shall obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the regulations of the company.

(ii) The office of director of a company shall be vacated, if the director does not within two months from the date of his appointment, or within such shorter time as may be fixed by the regulations of the company, obtain his qualification, or if after the expiration of such period or shorter time he ceases at any time to hold his qualification.

(iii) A person vacating office under this section shall be incapable of being re-appointed director of the company until he has obtained his qualification.

(iv) If after the expiration of the said period or shorter time any unqualified person acts as a director of the company, he shall be liable to a fine not exceeding fifty dollars for every day between the expiration of the said period or shorter time and the last day on which it is proved that he acted as a director.

Validity of acts of directors.

74. The acts of a director or manager shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification,

List of directors to be sent to Registrar.

75. (i) Every company shall keep at its registered office a register containing the names and addresses and the occupations of its directors or managers, and send to the Registrar a copy thereof, and notify to the Registrar any change among its directors or managers.

(ii) If default is made in complying with this section, the company shall be liable to a fine not exceeding fifty dollars for every day during which the default continues; and every director and manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

Contracts, Etc.

Form of contracts.

76. (i) Contracts on behalf of a company may be made as follows :

(*a*) any contract which if made between private persons would be by law required to be in writing, whether under seal or not, may be made on behalf of the company in writing under the common seal of the company, and may in the same manner be varied or discharged ;

(*b*) any contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the company in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged ;

(*c*) any contract which if made between private persons would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the company by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(ii) All contracts made according to this section shall be effectual in law, and shall bind the company and its successors and all other parties thereto, their executors or administrators as the case may be.

Bills of exchange and promissory notes.

77. A bill of exchange or promissory note shall be deemed to have been made, accepted, or endorsed on behalf of a company if made, accepted, or endorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority.

Execution of deeds abroad.

78. A company may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in the Federated Malay States ; and every deed signed by such attorney, on behalf of the company, and under his seal, shall bind the company, and have the same effect as if it were under its common seal.

Power for company to have official seal for use abroad.

79. (i) A company whose objects require or comprise the transaction of business outside the Federated Malay States may, if authorized by its articles, have for use in any territory, district, or place not situate in the Federated Malay States, an official seal, which shall be a facsimile of the common seal of the company, with the addition on its face of the name of every territory, district, or place where it is to be used.

(ii) A company having such an official seal may, by writing under its common seal, authorize any person appointed for the purpose in any territory, district, or place not situate in the Federated Malay States, to affix the same to any deed or other document to which the company is party in that territory, district, or place.

(iii) The authority of any such agent shall, as between the company and any person dealing with the agent, continue during the period, if any, mentioned in the instrument conferring the authority, or if no period is there mentioned, then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him.

(iv) The person affixing any such official seal shall by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and place of affixing the same.

(v) A deed or other document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company.

PROSPECTUS.

Filing of prospectus.

80. (i) Every prospectus issued by or on behalf of a company or in relation to any intended company shall be dated, and such date shall, unless the contrary be proved, be taken as the date of publication of the prospectus.

(ii) A copy of every such prospectus, signed by every person who is named therein as a director or proposed director of the company, or by his agent authorized in writing, shall be filed for registration with the Registrar on or before the date of its publication, and no such prospectus shall be issued until a copy thereof has been so filed for registration.

(iii) The Registrar shall not register any prospectus unless it is dated, and the copy thereof signed, in manner required by this section.

(iv) Every prospectus shall state on the face of it that a copy has been filed for registration as required by this section.

(v) If a prospectus is issued without a copy thereof being so filed, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding fifty dollars for every day from the date of the issue of the prospectus until a copy thereof is so filed.

Specific requirements as to particulars of prospectus.

81. (i) Every prospectus issued by or on behalf of a company or by or on behalf of any person who is or has been engaged or interested in the formation of the company shall state

(*a*) the contents of the memorandum, with the names, descriptions, and addresses of the signatories, and the number of shares subscribed for by them respectively; and the number of founders or management or deferred shares, if any, and the nature and extent of the interest of the holders in the property and the profits of the company;

the number of shares, if any, fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors ;

(*c*) the names, descriptions, and addresses of the directors or proposed directors ;

(*d*) the minimum subscription on which the directors may proceed to allotment, and the amount payable on application and allotment on each share ; and in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the two preceding years, and the amount actually allotted, and the amount, if any, paid on the shares so allotted ;

(*e*) the number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued ;

(*f*) the names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares, or debentures, to the vendor, and where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor ; provided that where the vendors or any of them are a firm the members of the firm shall not be treated as separate vendors ;

(*g*) the amount, if any, paid or payable as purchase money in cash, shares, or debentures, for any such property as aforesaid, specifying the amount, if any, payable for goodwill ;

(*h*) the amount, if any, paid within the two preceding years, or payable as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions for any shares in, or debentures of, the company, or the rate of any such commission ; provided that it shall not be necessary to state the commission payable to sub-underwriters ;

(*i*) the amount or estimated amount of preliminary expenses ;

(*j*) the amount paid within the two preceding years or intended to be paid to any promoter, and the consideration for any such payment ;

(*k*) the dates of and parties to every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected ; provided that this requirement shall not apply to a contract entered into in

the ordinary course of the business carried on or intended to be carried on by the company, or to any contract entered into more than two years before the date of issue of the prospectus ;

(*l*) the names and addresses of the auditors, if any, of the company ;

(*m*) full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company ; and

(*n*) where the company is a company having shares of more than one class, the right of voting at meetings of the company conferred by the several classes of shares respectively.

(ii) For the purposes of this section every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where

(*a*) the purchase money is not fully paid at the date of issue of the prospectus ; or

(*b*) the purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus ; or

(*c*) the contract depends for its validity or fulfilment on the result of such issue.

(iii) Where any of the property to be acquired by the company is to be taken on lease, this section shall apply as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

(iv) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in the prospectus, shall be void.

(v) Where any such prospectus as is mentioned in this section is published as a newspaper advertisement, it shall not be necessary in the advertisement to specify the contents of the memorandum or the signatories thereto, and the number of shares subscribed for by them.

(vi) In the event of non-compliance with any of the requirements of this section, no director or other person responsible for the

prospectus shall incur any liability by reason of the non-compliance, if he proves that

(*a*) as regards any matters not disclosed, he was not cognizant thereof; or

(*b*) the non-compliance arose from an honest mistake of fact on his part;

provided that in the event of non-compliance with the requirements contained in sub-section (i) (*m*) no director or other person shall incur any liability in respect of the non-compliance unless it be proved that he had knowledge of the matters not disclosed.

(vii) This section shall not apply to a circular or notice inviting existing members or debenture holders of a company to subscribe either for shares or for debentures of the company, whether with or without the right to renounce in favour of other persons, but subject as aforesaid, this section shall apply to any prospectus whether issued on or with reference to the formation of a company or subsequently.

(viii) The requirements of this section as to the memorandum and the qualification, remuneration, and interest of directors, the names, descriptions, and addresses of directors or proposed directors, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business.

(ix) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Enactment apart from this Section C.

Obligations of companies when no prospectus is issued.

82. (i) A company which does not issue a prospectus on or with reference to its formation, shall not allot any of its shares or debentures unless before the first allotment of either shares or debentures there has been filed with the Registrar a statement in lieu of prospectus signed by every person who is named therein as a director or a proposed director of the company or by his agent authorized in writing, in the form and containing the particulars set out in Schedule C.

(ii) This section shall not apply to a private company or to a company which has allotted any shares or debentures before the commencement of this Enactment.

Restriction on alteration of terms mentioned in prospectus or statement in lieu of prospectus.

83. A company shall not previously to the statutory meeting vary the terms of a contract referred to in the prospectus or statement in lieu of prospectus, except subject to the approval of the statutory meeting.

Liability for statements in prospectus.

84. (i) Where a prospectus invites persons to subscribe for shares in or debentures of a company, every person who is a director of the company at the time of the issue of the prospectus, and every person who has authorized the naming of himself and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorized

the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage which they may have sustained by reason of any untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved

(*a*) with respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures, as the case may be, believe, that the statement was true; and

(*b*) with respect to every untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation; provided that the director, person named as director, promoter, or person who authorized the issue of the prospectus, shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making the statement, report, or valuation was competent to make it; and

(*c*) with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document;

or unless it is proved

(*d*) that having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or

(*e*) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or

(*f*) that after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal, and of the reason therefor.

(ii) Where a company existing before the commencement of this Enactment, has issued shares or debentures, and for the purpose of obtaining further capital by subscriptions for shares or debentures issues a prospectus, a director shall not be liable in respect of any statement therein, unless he has authorized the issue of the prospectus, or has adopted or ratified it.

(iii) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director

thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorized or consented to the issue thereof, the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorized the issue thereof, shall be liable to indemnify the person named as aforesaid against all damages, costs, and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any action or legal proceedings brought against him in respect thereof.

(iv) Every person who by reason of his being a director, or named as a director or as having agreed to become a director, or of his having authorized the issue of the prospectus, becomes liable to make any payment under this section may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.

(v) For the purposes of this section

"Promoter" means a promoter who was a party to the preparation of the prospectus or of the portion thereof containing the untrue statement but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company:

"Expert" includes engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him.

ALLOTMENT.

Restriction as to allotment.

85. (i) No allotment shall be made of any share capital of a company offered to the public for subscription, unless the following conditions have been complied with—namely:

(*a*) the amount, if any, fixed by the memorandum or articles and named in the prospectus as the minimum subscription upon which the directors may proceed to allotment, or

(*b*) if no amount is so fixed and named, then the whole amount of the share capital so offered for subscription,

has been subscribed, and the sum payable on application for the amount so fixed and named, or for the whole amount offered for subscription, has been paid to and received in cash by the company.

(ii) The amount so fixed and named and the whole amount aforesaid shall be reckoned exclusively of any amount payable otherwise than in cash, and is in this Enactment referred to as "the minimum subscription."

(iii) The amount payable on application on each share shall not be less than five per cent. of the nominal amount of the share.

(iv) If the conditions aforesaid have not been complied with on the expiration of one hundred and twenty days after the first issue of the prospectus, all moneys received from applicants for shares shall forthwith be repaid to them without interest, and, if any such

money is not so repaid within one hundred and thirty days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of five per centum per annum from the expiration of the one hundred and thirtieth day; provided that a director shall not be liable if he proves that such money was lost and that the loss was not due to any misconduct or negligence on his part.

(v) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(vi) This section, except sub-section (iii) thereof, shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription.

(vii) In the case of the first allotment of share capital payable in cash of a company which does not issue any invitation to the public to subscribe for its shares, no allotment shall be made unless

(*a*) the amount, if any, fixed by the memorandum or articles and named in the statement in lieu of prospectus as the minimum subscription upon which the directors may proceed to allotment, or

(*b*) if no amount is so fixed and named, then the whole amount of the share capital other than that issued or agreed to be issued as fully or partly paid up otherwise than in cash,

has been subscribed and an amount not less than five per cent. of the nominal amount of each share payable in cash has been paid to and received by the company.

(viii) Sub-section (vii) shall not apply to a private company or to a company which has allotted any shares or debentures before the commencement of this Enactment.

Effect of irregular allotment.

86. (i) An allotment made by a company to an applicant in contravention of the provisions of Section 85 shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

(ii) Any director of a company who knowingly contravenes or permits or authorizes the contravention of any of the provisions of Section 85 with respect to allotment shall be liable to compensate the company and the allottee respectively for any loss, damages, or costs which the company or the allottee may have sustained or incurred thereby.

(iii) Proceedings to recover any such loss, damages, or costs shall not be commenced after the expiration of two years from the date of the allotment.

Restriction on commencement of business.

87. (i) A company shall not commence any business or exercise any borrowing powers unless

(*a*) shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription;

(*b*) every director of the company has paid to the company on each of the shares taken or contracted to be taken by him, for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription, or in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, on the shares payable in cash ;

(*c*) there has been filed with the Registrar a statutory declaration by the secretary or one of the directors, in the prescribed form, that the aforesaid conditions have been complied with ; and

(*d*) in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, there has been filed with the Registrar a statement in lieu of prospectus.

(ii) Subject to sub-section (iii) the Registrar shall, on the filing of this statutory declaration, certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled.

(iii) In the case of a company which does not issue a prospectus inviting the public to subscribe for its shares the Registrar shall not give such a certificate unless a statement in lieu of prospectus has been filed with him.

(iv) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(v) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(vi) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to a fine not exceeding five hundred dollars for every day during which the contravention continues.

(vii) Nothing in this section shall apply to a private company, or to a company registered before the commencement of this Enactment.

Return as to allotments.

88. (i) Whenever a company limited by shares makes any allotment of its shares, the company shall within one month thereafter file with the Registrar

(*a*) a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses, and descriptions of the allottees, and the amount, if any, paid or due and payable on each share ; and

(*b*) in the case of shares allotted as fully or partly paid up otherwise than in cash, a contract in writing constituting

the title of the allottee to the allotment together with any contract of sale, or for services or other consideration in respect of which that allotment was made, such contracts being duly stamped, and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

(ii) Where such a contract as above mentioned is not reduced to writing, the company shall within one month after the allotment file with the Registrar the prescribed particulars of the contract stamped with the same stamp duty as would have been payable if the contract had been reduced to writing, and those particulars shall be deemed to be an instrument within the meaning of the Stamp Enactments, 1897, and the Registrar may, as a condition of filing the particulars, require that the duty payable thereon be adjudicated under Section 40 of those Enactments or any of them.

(iii) If default is made in complying with the requirements of this section, any director, manager, secretary, or other officer of the company, who is knowingly a party to the default shall be liable to a fine not exceeding five hundred dollars for every day during which the default continues.

(iv) In case of default in filing with the Registrar within one month after the allotment any document required to be filed by this section, the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that the omission to file the document was accidental or due to inadvertence or that it is just and equitable to grant relief, may make an order extending the time for the filing of the document for such period as the Court may think proper.

Commissions and Discounts.

Power to pay certain commissions and prohibition of payment of all other commissions, discounts, etc.

89. (i) A company may pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, if the payment of the commission is authorized by the articles, and the commission paid or agreed to be paid does not exceed the amount or rate so authorized, and if the amount or rate per cent. of the commission paid or agreed to be paid is

(*a*) in the case of shares offered to the public for subscription, disclosed in the prospectus ; or

(*b*) in the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus and filed with the Registrar, and, where a circular or notice, not being a prospectus, inviting subscription for the shares is issued, also disclosed in that circular or notice.

(ii) Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment of any

commission, discount, or allowance, to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money to be paid out of the nominal purchase money or contract price, or otherwise.

(iii) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay, and a vendor to, promoter of, or other person who receives payment in money or shares from, a company shall have and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.

Statement in balance sheet as to commissions and discounts.

90. Where a company has paid any sums by way of commission in respect of any shares or debentures, or allowed any sums by way of discount in respect of any debentures, the total amount so paid or allowed, or so much thereof as has not been written off, shall be stated in every balance sheet of the company until the whole amount thereof has been written off.

Payment of Interest out of Capital.

Power of company to pay interest out of capital in certain cases.

91. (i) Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the same to capital as part of the cost of construction of the work or building, or the provision of plant; provided that,

(*a*) no such payment shall be made unless the same is authorized by the articles or by special resolution;

(*b*) no such payment, whether authorized by the articles or by special resolution, shall be made without the previous sanction of the Court;

(*c*) the payment shall be made only for such period as may be determined by the Court; and such period shall in no case extend beyond the close of the half-year next after the half-year during which the works or buildings have been actually completed or the plant provided;

(*d*) the rate of interest shall in no case exceed six per cent. per annum or such lower rate as may for the time being be prescribed;

(*e*) the payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid,

(ii) Before sanctioning any such payment the Court may, at the expense of the company, appoint a person to inquire and report to it as to the circumstances of the case, and may, before making the appointment, require the company to give security for the payment of the costs of inquiry.

(iii) The accounts of the company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate.

Certificates of Shares, etc.

Limitation of time for issue of certificates.

92. (i) Every company shall within two months after the allotment of any of its shares, debentures, or debenture stock and within two months after the registration of the transfer of any such shares, debentures, or debenture stock complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred unless the conditions of issue of the shares, debentures, or debenture stock otherwise provide.

(ii) If default is made in complying with the requirements of this section, the company and any director, manager, secretary, or other officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding fifty dollars for every day during which the default continues.

Information as to Mortgages, Charges, etc.

Registration of mortgages and charges in Federated Malay States.

93. (i) Every mortgage or charge created after the commencement of this Enactment by a company registered in the Federated Malay States and being either

(*a*) a mortgage or charge for the purpose of securing any issue of debentures ; or

(*b*) a mortgage or charge on uncalled share capital of the company ; or

(*c*) a mortgage or charge created or evidenced by an instrument which, if executed by an individual, would require registration as a bill of sale ; or

(*d*) a mortgage or charge on any land, wherever situate, or any interest therein ; or

(*e*) a mortgage or charge on any book debts of the company ; or

(*f*) a floating charge on the undertaking or property of the company,

shall, so far as any security on the company's property or undertaking is thereby conferred, be void against the liquidator and any creditor of the company, unless the prescribed particulars of the mortgage or charge, together with the instrument, if any, by which the mortgage or charge is created or evidenced, are delivered to or received by the Registrar for registration in manner required by this Enactment within twenty-one days after the date of its creation.

(ii) In the case of a mortgage or charge created out of the Federated Malay States comprising solely property situate outside the Federated Malay States, the delivery to and the receipt by the

Registrar of a copy of the instrument by which the mortgage or charge is created or evidenced, verified in the prescribed manner, shall have the same effect for the purposes of this section as the delivery and receipt of the instrument itself, and twenty-one days after the date on which the instrument or copy could, in due course of post, and if despatched with due diligence, have been received in the Federated Malay States, shall be substituted for twenty-one days after the date of the creation of the mortgage or charge, as the time within which the particulars and instrument or copy are to be delivered to the Registrar.

(iii) Where the mortgage or charge is created in the Federated Malay States but comprises property outside the Federated Malay States, the instrument creating or purporting to create the mortgage or charge may be sent for registration notwithstanding that further proceedings may be necessary to make the mortgage or charge valid or effectual according to the law of the country in which the property is situate.

(iv) Where a negotiable instrument has been given to secure the payment of any book debts of a company, the deposit of the instrument for the purpose of securing an advance to the company shall not for the purposes of this section be treated as a mortgage or charge on those book debts.

(v) The holding of debentures entitling the holder to a charge on land shall not be deemed to be an interest in land.

(vi) When a mortgage or charge becomes void under this section the moneys thereby secured shall immediately become payable, but no contract or obligation for the repayment of such moneys shall be otherwise affected.

(vii) The Registrar shall keep, with respect to each company, a register in the prescribed form of all the mortgages and charges created by the company after the commencement of this Enactment and requiring registration under this section, and shall, on payment of the prescribed fee, enter in the register, with respect to every such mortgage or charge, the date of creation, the amount secured by it, short particulars of the property mortgaged or charged, and the names of the mortgagees or persons entitled to the charge.

(viii) Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture holders of that series are entitled *pari passu* is created by a company, it shall be sufficient if there are delivered to or received by the Registrar within twenty-one days after the execution of the deed containing the charge or, if there is no such deed, after the execution of any debentures of the series, the following particulars :

(*a*) the total amount secured by the whole series ;

(*b*) the dates of the resolutions authorizing the issue of the series and the date of the covering deed, if any, by which the security is created or defined ;

(*c*) a general description of the property charged ; and

(*d*) the names of the trustees, if any, for the debenture holders,

together with the deed containing the charge, or, if there is no such deed, one of the debentures of the series, and the Registrar shall, on payment of the prescribed fee, enter those particulars in the register.

(ix) Where more than one issue is made of debentures in the series, the company shall send to the Registrar for entry in the register particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

(x) Where any commission, allowance, or discount has been paid or made either directly or indirectly by the company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be sent for registration under this section shall include particulars as to the amount or rate per cent. of the commission, discount, or allowance so paid or made, but an omission to do this shall not affect the validity of the debentures issued ; provided that the deposit of any debentures as security for any debt of the company shall not for the purposes of this provision be treated as the issue of the debentures at a discount.

(xi) The Registrar shall give a certificate under his hand of the registration of any mortgage or charge registered in pursuance of this section, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of this section as to registration have been complied with.

(xii) The company shall cause a copy of every certificate of registration given under this section to be endorsed on every debenture or certificate of debenture stock which is issued by the company, and the payment of which is secured by the mortgage or charge so registered.

(xiii) Nothing in sub-section (xii) shall be construed as requiring a company to cause a certificate of registration of any mortgage or charge so given to be endorsed on any debenture or certificate of debenture stock which has been issued by the company before the mortgage or charge was created.

(xiv) The company shall send to the Registrar for registration the particulars of every mortgage or charge created by the company and of the issues of debentures of a series, requiring registration under this section, but registration of any such mortgage or charge may be effected on the application of any person interested therein.

(xv) Where the registration is effected on the application of some person other than the company, such person shall be entitled to recover from the company the amount of any fees properly paid by him to the Registrar on the registration.

(xvi) The register kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee, not exceeding fifty cents for each inspection.

(xvii) Every company shall cause a copy of every instrument creating any mortgage or charge requiring registration under this section to be kept at the registered office of the company ; provided that, in the case of a series of uniform debentures, a copy of one such debenture shall be sufficient.

Registration of secured debts created before the commencement of this Enactment.

94. (i) Every company,

(*a*) which at the commencement of this Enactment shall owe any money secured by any mortgage or charge which under the provisions of Section 93 would have required registration had it been created after the commencement of this Enactment ; or

(*b*) which shall hereafter for the first time owe any money on any such mortgage or charge created before the commencement of this Enactment

shall within three months after the commencement of this Enactment or within twenty-one days after the debt has been incurred thereon, as the case may be, send to the Registrar for registration the particulars of every such mortgage or charge in the appropriate form contained in Schedule D, and the Registrar shall, on payment of the fee prescribed for registering under Section 93 any mortgage or charge or any series of debentures, enter those particulars on his register of mortgages and charges.

(ii) Where a series of debentures containing or giving by reference to any other instrument any charge to the benefit of which the debenture holders of that series are entitled *pari passu* has been registered, the company shall send to the Registrar for entry in the register particulars of the date and amount of each issue of debentures of the series made after the date of the registration of the series.

(iii) The neglect of the company to comply with the provisions of this section shall not prejudice the rights under any such mortgage or charge of any person in whose favour the mortgage or charge was made.

Registration of enforcement of security.

95. (i) If any person obtains an order for the appointment of a receiver or manager of the property of a company, or appoints such a receiver or manager under any powers contained in any instrument, he shall within seven days from the date of the order or of the appointment under the powers contained in the instrument give notice of the fact to the Registrar, and the Registrar shall, on payment of the prescribed fee, enter the fact in the register of mortgages and charges.

(ii) Any person who makes default in complying with the requirements of this section shall be liable to a fine not exceeding fifty dollars for every day during which the default continues.

Filing accounts of receivers and managers.

96. (i) Every receiver or manager of the property of a company who has been appointed under the powers contained in any instrument, and who has taken possession, shall, once in every half-year while he remains in possession, and also on ceasing to act as receiver or manager, file with the Registrar an abstract in the prescribed

form of his receipts and payments during the period to which the abstract relates, and shall also on ceasing to act as receiver or manager file with the Registrar notice to that effect, and the Registrar shall enter the notice in the register of mortgages and charges.

(ii) Any receiver or manager who makes default in complying with the provisions of this section shall be liable to a fine not exceeding five hundred dollars.

Rectification of register of mortgages.

97. A Judicial Commissioner on being satisfied

(*a*) that the omission to register a mortgage or charge within the time hereinbefore required, or that the omission or misstatement of any particular with respect to any such mortgage or charge, was accidental, or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or shareholders of the company ; or

(*b*) that on other grounds it is just and equitable to grant relief,

may, on the application of the company or any person interested, and on such terms and conditions as seem to the Judicial Commissioner just and expedient, order that the time for registration be extended, or, as the case may be, that the omission or misstatement be rectified.

Entry of satisfaction.

98. The Registrar may, on evidence being given to his satisfaction that the debt for which any registered mortgage or charge was given has been paid or satisfied, order that a memorandum of satisfaction be entered on the register, and shall if required furnish the company with a copy thereof.

Index to register of mortgages and charges.

99. The Registrar shall keep a chronological index, in the prescribed form and with the prescribed particulars, of the mortgage or charges registered with him under this Enactment.

Penalties.

100. (i) If any company makes default in sending to the Registrar for registration the particulars of any mortgage or charge created by the company, and of the issues of debentures of a series, requiring registration with the Registrar under the foregoing provisions of this Enactment, then, unless the registration has been effected on the application of some other person, the company, and any director, manager, secretary, or other person who is knowingly a party to the default, shall be liable to a fine not exceeding five hundred dollars for every day during which the default continues.

(ii) Subject as aforesaid, any company which makes default in complying with any of the requirements of this Enactment as to the registration with the Registrar of any mortgage or charge created by the company, and any director, manager, or other officer of the company, who knowingly and wilfully authorized or permitted the default, shall, without prejudice to any other liability, be liable to a fine not exceeding one thousand dollars.

(iii) Any person who knowingly and wilfully authorizes or permits the delivery of any debenture or certificate of debenture stock requiring registration with the Registrar under the foregoing

provisions of this Enactment without a copy of the certificate of registration being endorsed upon it, shall, without prejudice to any other liability, be liable to a fine not exceeding one thousand dollars.

Register of mortgages.

101. (i) Every limited company shall keep at its registered office a register of mortgages and enter therein all mortgages and charges specifically affecting property of the company, giving in each case a short description of the property mortgaged or charged, the amount of the mortgage or charge, and, except in the case of securities to bearer, the names of the mortgagees or persons entitled thereto.

(ii) Any director, manager, or other officer of the company who knowingly and wilfully authorizes or permits the omission of any entry required to be made in pursuance of this section shall be liable to a fine not exceeding five hundred dollars.

Right to inspect copies of mortgages, charges, etc.

102. (i) The copies of instruments creating any mortgage or charge requiring registration under this Enactment with the Registrar, and the register of mortgages kept in pursuance of Section 101, shall be open at all reasonable times to the inspection of any creditor or member of the company, without fee, and the register of mortgages shall also be open to the inspection of any other person on payment of such fee, not exceeding fifty cents for each inspection, as the company may prescribe.

(ii) If inspection of the said copies or register is refused, any officer of the company refusing inspection, and any director or manager of the company authorizing or knowingly and wilfully permitting the refusal, shall be liable to a fine not exceeding fifty dollars, and a further fine not exceeding twenty dollars for every day during which the refusal continues; and, in addition to the above penalty, any Judicial Commissioner sitting in chambers may by order compel an immediate inspection of the copies or register.

Right of debenture holders to inspect the register of debenture holders and to have copies of trust deed.

103. (i) Every register of holders of debentures of a company shall, except when closed in accordance with the articles during such period or periods, not exceeding in the whole thirty days in any year, as may be specified in the articles, be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company, but subject to such reasonable restrictions as the company may in general meeting impose, so that at least two hours in each day are appointed for inspection, and every such holder may require a copy of the register or any part thereof on payment of twenty-five cents for every one hundred words required to be copied.

(ii) A copy of any trust deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed copy of the sum of fifty cents, or, where the trust deed has not been printed, on payment of twenty-five cents for every one hundred words required to be copied.

(iii) If inspection is refused, or a copy is refused or not forwarded, the company shall be liable to a fine not exceeding fifty dollars, and to a further fine not exceeding twenty dollars for every day during

which the refusal continues, and every director, manager, secretary, or other officer of the company who knowingly authorizes or permits the refusal shall incur the like penalty.

Debentures and Floating Charges.

Perpetual debentures.

104. A condition contained in any debentures or in any deed for securing any debentures, whether issued or executed before or after the commencement of this Enactment, shall not be invalid by reason only that thereby the debentures are made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding.

Power to re-issue redeemed debentures in certain cases.

105. (i) Where either before or after the commencement of this Enactment a company has redeemed any debentures previously issued, the company, unless the articles or the conditions of issue expressly otherwise provide, or unless the debentures have been redeemed in pursuance of any obligation on the company so to do (not being an obligation enforceable only by the person to whom the redeemed debentures were issued or his assigns), shall have power, and shall be deemed always to have had power, to keep the debentures alive for the purposes of re-issue.

(ii) Where a company has purported to exercise such a power the company shall have power, and shall be deemed always to have had power, to re-issue the debentures either by re-issuing the same debentures or by issuing other debentures in their place, and upon such a re-issue the person entitled to the debentures shall have, and shall be deemed always to have had, the same rights and priorities as if the debentures had not previously been issued.

(iii) Where with the object of keeping debentures alive for the purpose of re-issue they have either before or after the commencement of this Enactment been transferred to a nominee of the company, a transfer from that nominee shall be deemed to be a re-issue for the purposes of this section.

(iv) Where a company has either before or after the commencement of this Enactment deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(v) The re-issue of a debenture or the issue of another debenture in its place under the power by this section given to, or deemed to have been possessed by, a company, whether the re-issue or issue was made before or after the commencement of this Enactment, shall be treated as the issue of a new debenture for the purposes of stamp duty, but it shall not be so treated for the purposes of any provision limiting the amount or number of debentures to be issued.

(vi) Any person lending money on the security of a debenture re-issued under this section which appears to be duly stamped may give the debenture in evidence in any proceedings for enforcing his security without payment of the stamp duty or any penalty in

respect thereof, unless he had notice or, but for his negligence, might have discovered, that the debenture was not duly stamped, but in any such case the company shall be liable to pay the proper stamp duty and penalty.

(vii) Nothing in this section shall prejudice

(*a*) the operation of any judgment or order of a Court of competent jurisdiction pronounced or made before the commencement of this Enactment as between the parties to the proceedings in which the judgment was pronounced or the order made, and any appeal from any such judgment or order shall be decided as if this Enactment had not been passed ; or

(*b*) any power to issue debentures in the place of any debentures paid off or otherwise satisfied or extinguished, reserved to a company by its debentures or the securities for the same.

Specific performance of contract to subscribe for debentures.

106. A contract with a company to take up and pay for any debentures of the company may be enforced by an order for specific performance.

Payment of certain debts out of assets subject to floating charge in priority to claims under the charge.

107. (i) Where either a receiver is appointed on behalf of the holders of any debentures of the company secured by a floating charge, or possession is taken by or on behalf of those debenture holders of any property comprised in or subject to the charge, then, if the company is not at the time in course of being wound up, the debts which in every winding-up are under the provisions of Part IV relating to preferential payments to be paid in priority to all other debts, shall be paid forthwith out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures.

(ii) The periods of time mentioned in the said provisions of Part IV shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.

(iii) Any payments made under this section shall be recouped as far as may be out of the assets of the company available for payment of general creditors.

Books of Account.

Books of account to be kept in English.

108. (i) The principal books of account kept by a company shall be in the English language.

(ii) Any company which fails to comply with this section and any director, manager, or secretary of the company who knowingly and wilfully authorizes or permits the default, shall be liable to a fine not exceeding fifty dollars for every day during which the default continues.

Advances by Banking and certain other Companies.

Advances by banking, etc., companies to their directors or officers.

109. (i) No advances shall be made by any banking or insurance company or by any deposit, provident, or benefit society to any director or officer of such company or society, or to any firm of

which any director or officer of such company or society is a partner, except upon securities of one of the classes enumerated in sub-section (ii), and the value of which exceeds the amount advanced by thirty per centum.

(ii) The securities referred to in sub-section (i) are—

(*a*) parliamentary stocks, public funds and Government securities of the United Kingdom of Great Britain and Ireland or of British India or any British Colony or of the Federated Malay States ;

(*b*) securities the interest on which is or shall be guaranteed by the Parliament of the said United Kingdom ;

(*c*) titles to immovable property in the Federated Malay States by grant in perpetuity or by lease (other than mining lease) for a term whereof 100 years at least shall be unexpired at the time of the making of the advance thereon ;

(*d*) freehold or leasehold securities in the Straits Settlements such leasehold securities being for a term whereof 100 years at least shall be unexpired at the time of the making of the advance thereon ;

(*e*) debentures, debenture stock or guaranteed or preference or ordinary stock or shares of any railway or other company a fixed or minimum rate of interest or dividend on which is guaranteed by the Government of the Federated Malay States or of any British Colony ;

(*f*) debentures or debenture or rent-charge stock of any railway, canal, dock, harbour, gas, water, electric supply or other company or body incorporated by special legislation of the Federated Malay States or the Straits Settlements or by Royal Charter ;

(*g*) guaranteed or preference stock or shares of any railway, canal, dock, harbour, gas, water or other company which shall have paid dividends upon its ordinary capital for at least the three years last preceding the making of the advance thereon ;

(*h*) debentures or debenture or rent-charge stock of any railway, canal, dock, harbour, gas, water or other company incorporated in the Federated Malay States or the Straits Settlements which shall have paid a dividend at the rate of not less than five per centum upon its ordinary capital during each of the three years last preceding the making of the advance thereon ;

(*i*) stocks, bonds, debentures, or securities of any public body, municipality, or local authority in the Federated Malay States or the Straits Settlements the revenues whereof are under the control of the Government of the said States or Settlements, as the case may be.

(iii) A list containing the amounts advanced every month under this section, and the names of the directors or officers to whom such

advances have been made, together with the amounts previously advanced which have not been repaid, shall be prepared and a copy thereof shall, on the first Monday in every succeeding month, be sent to the Registrar.

(iv) If advances are made contrary to the provisions of this section, any director or manager of the company or society shall be liable to a fine not exceeding one thousand dollars, and shall, in addition thereto, be liable for the payment of any portion of the amount advanced which remains unpaid after deducting the amount realized on the securities ; provided that no director or manager shall incur any liability under this sub-section if he proves that he was not cognizant of advances being made contrary to the provisions of this section.

(v) If default is made in compliance with the provisions of sub-section (iii), any director or manager of the company or society shall be liable to a fine not exceeding fifty dollars for every day during which the default continues ; provided that no director or manager shall be liable to a fine under this sub-section if he proves that he was not cognizant of the default made.

Statement to be Published by Banking and certain other Companies.

Certain companies to publish statements in schedule.

[1] **110.** (i) Every company being a limited banking company or an insurance company or a deposit, provident, or benefit society shall, before it commences business, and also on the first Monday in February and the first Tuesday in August in every year during which it carries on business, make a statement in Form C in Schedule B, or as near thereto as circumstances will admit.

(ii) The statement shall bear a certificate by an auditor approved by the Chief Secretary stating that it has been examined by him with the books of account of the company, that the securities mentioned therein have been inspected by him, and that it is a full, true, and complete statement.

(iii) A copy of the statement shall be published before the end of March or September, as the case may be, in the *Gazette*, and in one issue of an English newspaper circulating in the State in which the registered office of the company is situate.

(iv) A copy of the statement shall be put up in a conspicuous place in the registered office of the company, and in every branch office or place where the business of the company is carried on and another copy shall be forthwith sent to the Registrar.

(v) Every member and every creditor of the company shall be entitled to a copy of the statement, on payment of a sum not exceeding twenty-five cents.

(vi) If default is made in complying with this section the company shall be liable to a fine not exceeding fifty dollars for every day during which the default continues ; and every director and manager

[1] Repealed so far as it relates to fire insurance companies (E. 3 of 1918, Section 1).

of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

(vii) For the purposes of this Enactment a company that carries on the business of insurance in common with any other business or businesses shall be deemed to be an insurance company.

Inspection and Audit.

Investigation of affairs of company by inspectors.

111. (i) The Chief Secretary may appoint one or more competent inspectors to investigate the affairs of any company and to report thereon in such manner as he may direct,

(*a*) in the case of a banking company having a share capital, on the application of members holding not less than one-third of the shares issued ;

(*b*) in the case of any other company having a share capital, on the application of members holding not less than one-tenth of the shares issued ;

(*c*) in the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members.

(ii) The application shall be supported by such evidence as the Chief Secretary may require for the purpose of shewing that the applicants have good reason for, and are not actuated by malicious motives in requiring, the investigation ; and the Chief Secretary may, before appointing an inspector, require the applicants to give security for payment of the costs of the enquiry.

(iii) All officers and agents of the company shall produce to the inspectors all books and documents in their custody or power.

(iv) An inspector may examine on oath the officers and agents of the company in relation to its business, and may administer an oath accordingly.

(v) Every officer or agent who refuses to produce any book or document which under this section it is his duty to produce, or to answer any question relating to the affairs of the company, shall be liable to a fine not exceeding fifty dollars in respect of each offence.

(vi) On the conclusion of the investigation the inspectors shall report their opinion to the Chief Secretary, and a copy of the report shall be forwarded by the Chief Secretary to the registered office of the company, and a further copy shall, at the request of the applicants for the investigation, be delivered to them. The report shall be written or printed, as the Chief Secretary directs.

(vii) All expenses of and incidental to the investigation shall be defrayed by the applicants, unless the Chief Secretary directs the same to be paid by the company, which the Chief Secretary is hereby authorized to do.

Power of company to appoint inspectors.

112. (i) A company may by special resolution appoint inspectors to investigate its affairs.

(ii) Inspectors so appointed shall have the same powers and duties as inspectors appointed by the Chief Secretary, except that, instead of reporting to the Chief Secretary, they shall report in such

manner and to such persons as the company in general meeting may direct.

(iii) Officers and agents of the company shall incur the like penalties in case of refusal to produce any book or document required to be produced to inspectors so appointed, or to answer any question, as they would have incurred if the inspectors had been appointed by the Chief Secretary.

Report of inspectors to be evidence.

113. A copy of the report of any inspectors appointed under this Enactment, authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report.

Appointment and remuneration of auditors.

114. (i) Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(ii) No person, other than a retiring auditor already approved by the Chief Secretary under this Enactment, shall be capable of acting as the auditor of any company, other than a private company, until he has been approved by the Chief Secretary.

(iii) If an appointment of auditors is not made at an annual general meeting, the Chief Secretary may, on the application of any member of the company, appoint an auditor of the company for the current year, and fix the remuneration to be paid to him by the company for his services.

(iv) A director or officer of the company, or a partner in any business with, or a servant of, a director or officer of the company, shall not be capable of being appointed or of acting as auditor of the company.

(v) A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a shareholder to the company not less than fourteen days before the annual general meeting, and the company shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to the shareholders, either by advertisement or in any other mode allowed by the articles, not less than seven days before the annual general meeting; provided that if, after notice of the intention to nominate an auditor has been so given, an annual general meeting is called for a date fourteen days or less after the notice has been given, the notice, though not given within the time required by this provision, shall be deemed to have been properly given for the purposes thereof, and the notice to be sent or given by the company may, instead of being sent or given within the time required by this provision, be sent or given at the same time as the notice of the annual general meeting.

(vi) The first auditors of the company may be appointed by the directors before the statutory meeting, and if so appointed shall hold office until the first annual general meeting, unless previously removed by a resolution of the shareholders in general meeting, in which case the shareholders at that meeting may appoint auditors.

(vii) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors, if any, may act.

(viii) The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of any auditors appointed before the statutory meeting, or to fill any casual vacancy, may be fixed by the directors.

Powers and duties of auditors.

115. (i) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and may require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

(ii) The auditors shall make a report to the shareholders on the accounts examined by them, and on every balance sheet laid before the company in general meeting during their tenure of office, and the report shall state

(*a*) whether or not they have obtained all the information and explanations which they have required ; and

(*b*) whether, in their opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shewn by the books of the company.

(iii) The balance sheet shall be signed on behalf of the Board by two of the directors of the company or, if there is only one director, by that director, and the auditors' report shall be attached to the balance sheet, or there shall be inserted at the foot of the balance sheet a reference to the report, and the report shall be read before the company in general meeting, and shall be open to inspection by any shareholder.

(iv) Any shareholder shall be entitled to be furnished by the directors with a copy of the balance sheet and auditors' report at a charge not exceeding twenty-five cents for every hundred words.

(v) If any copy of a balance sheet which has not been signed as required by this section is issued, circulated, or published, or if any copy of a balance sheet is issued, circulated, or published without either having a copy of the auditors' report attached thereto or containing such reference to that report as is required by this section, the company, and every director, manager, secretary, or other officer of the company who is knowingly a party to the default, shall be liable to a fine not exceeding five hundred dollars.

Rights of preference shareholders, etc., as to receipt and inspection of reports, etc.

116. (i) Holders of preference shares and debentures of a company shall have the same right to receive and inspect the balance sheets of the company and the reports of the auditors and other reports as is possessed by the holders of ordinary shares in the company.

(ii) This section shall not apply to a private company, nor to a company registered before the commencement of this Enactment.

Carrying on Business with Less than the Legal Minimum of Members.

117. If at any time the number of members of a company is reduced, in the case of a private company, below two, or, in the case of any other company, below seven, and it carries on business for more than six months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after such six months, and is cognizant of the fact that it is carrying on business with fewer than two members, or seven members, as the case may be, shall be severally liable for the payment of the whole debts of the company, contracted during that time, and may be sued for the same, without joinder in the action of any other member.

Prohibition of carrying on business with fewer than seven or in the case of a private company two members.

Service and Authentication of Documents.

118. A document may be served on a company by leaving it at or sending it by post to the registered office of the company.

Service of documents on company.

119. A document or proceeding requiring authentication by a company may be signed by a director, secretary, or other authorized officer of the company, and need not be under its common seal.

Authentication of documents.

Tables and Forms.

120. (i) The forms in Schedule E or forms as near thereto as circumstances admit shall be used in all matters to which those forms refer.

Application and alteration of tables and forms.

(ii) The Chief Secretary may alter any of the tables and forms in Schedule B, so that he does not increase the amount of fees payable to the Registrar in such schedule mentioned, and may alter or add to the forms in Schedule E.

(iii) Any such table or form, when altered, shall be published in the *Gazette*, and thenceforth shall have the same force as if it were included in one of the schedules; but no alteration made by the Chief Secretary in Table A in Schedule B shall affect any company registered before the alteration, or repeal, as respects that company, any portion of that table.

Arbitrations.

121. (i) A company may by writing under its common seal agree to refer and may refer to arbitration any existing or future difference between itself and any other company or person.

Arbitrations between companies and others.

(ii) Companies parties to the arbitration may delegate to the person or persons to whom the reference is made power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves, or by their directors or other managing body.

(iii) The provisions of this Part relating to arbitrations shall be deemed to apply to arbitrations, as well between companies and persons as between companies; and in the construction of those

provisions the expression " companies " shall include a person party to any such arbitration.

Power to alter or revoke agreements for reference.

122. The companies jointly, but not otherwise, by writing under their respective common seals, may add to, alter, or revoke any agreement for reference in accordance with this Enactment theretofore entered into between the companies, or any of the terms, conditions, or stipulations thereof.

Agreements to to carried into effect.

123. Every reference or agreement in accordance with this Enactment, except so far as it is revoked or modified in accordance with this Enactment, shall bind the companies, and may and shall be carried into full effect.

Reference to a single arbitrator.

124. Where the companies agree the reference shall be made to a single arbitrator.

Reference to two or more arbitrators.

125. Except where the companies agree that the reference shall be made to a single arbitrator, the reference shall be made as follows :

(*a*) where there are two companies the reference shall be made to two arbitrators ;

(*b*) where there are three or more companies the reference shall be made to so many arbitrators as there are companies.

Appointment of arbitrators by companies.

126. Where there are to be two or more arbitrators, every company shall by writing under its common seal appoint one of the arbitrators, and shall give notice in writing thereof to the other company or companies.

Appointment of arbitrators by Chief Secretary.

127. (i) Where there are to be two or more arbitrators, if any of the companies fails to appoint an arbitrator within fourteen days after being thereunto requested in writing by the other company, or by the other companies or any of them, then, on the application of the companies or any of them, the Chief Secretary, instead of the company so failing to appoint an arbitrator, may appoint an arbitrator.

(ii) The arbitrator so appointed shall for the purposes of this Enactment be deemed to be appointed by the company so failing.

Appointment of arbitrators by companies to supply vacancies.

128. Where the reference is made to two or more arbitrators, if before the matters referred to them are determined any arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as arbitrator, the company by which he was appointed shall by writing under its common seal appoint an arbitrator in his place.

Appointment of arbitrators by Chief Secretary to fill vacancies.

129. (i) Where the company by which an arbitrator ought to be appointed in the place of the arbitrator so deceased, incapable, unfit, or failing to act, fails to make the appointment within fourteen days after being thereunto requested in writing by the other company, or by the other companies or any of them, then, on the application of the companies or any of them, the Chief Secretary may appoint an arbitrator.

(ii) The arbitrator so appointed shall for the purposes of this Enactment be deemed to be appointed by the company so failing.

Appointment of arbitrator not revocable.

130. When any appointment of an arbitrator is made, the company making the appointment shall have no power to revoke the same without the previous consent in writing of the other company or every other company in writing under its common seal.

Appointment of umpire by arbitrators.

131. Where two or more arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands an impartial and qualified person to be their umpire.

Appointment of umpire by Chief Secretary.

132. (i) If the arbitrators do not appoint an umpire within seven days after the reference is made to the arbitrators, then, on the application of the companies or any of them, the Chief Secretary may appoint an umpire.

(ii) The umpire so appointed shall for the purposes of this Enactment be deemed to be appointed by the arbitrators.

Appointment of umpire by arbitrators to supply vacancy.

133. Where two or more arbitrators are appointed, if before the matters referred to them are determined their umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as umpire, the arbitrators shall by writing under their hands appoint an impartial and qualified person to be their umpire in his place.

Appointment of umpire by Chief Secretary to supply vacancy.

134. (i) If the arbitrators fail to appoint an umpire within seven days after notice in writing to them of the decease, incapacity, unfitness, or failure to act of their umpire, then, on the application of the companies or any of them, the Chief Secretary may appoint an umpire.

(ii) The umpire so appointed shall for the purposes of this Enactment be deemed to be appointed by the arbitrators so failing.

Succeeding arbitrators and umpires to have powers of predecessors.

135. Every arbitrator appointed in the place of a preceding arbitrator, and every umpire appointed in the place of a preceding umpire, shall respectively have the like powers and authorities as his respective predecessor.

Reference to umpire.

136. Where there are two or more arbitrators, if they do not, within such a time as the companies agree on, or, failing such agreement, within thirty days next after the reference is made to the arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not there determined, shall stand referred to their umpire.

Power for arbitrators, etc., to call for books, etc., and examine witnesses on oath.

137. The arbitrator and the arbitrators and the umpire respectively may call for the production of any documents or evidence in the possession or power of the companies respectively, or which they respectively can produce, and which the arbitrator or the arbitrators or the umpire shall think necessary for determining the matters referred, and may examine the witnesses of the companies respectively on oath, and may administer the requisite oath.

Procedure in the arbitration.

138. Except where and as the companies otherwise agree, the arbitrator and the arbitrators and the umpire respectively may proceed in the business of the reference in such manner as he and they respectively shall think fit.

Arbitration may proceed in the absence of companies.

139. The arbitrator and the arbitrators and the umpire respectively may proceed in the absence of all or any of the companies in every case in which, after giving notice in that behalf to

the companies respectively, the arbitrator or the arbitrators or the umpire shall think fit so to proceed.

Several awards may be made.

140. (i) The arbitrator and the arbitrators and the umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred.

(ii) Every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or in the event of no time having been so specified, for any time which the arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that notwithstanding that the other matters or any of them be not then or thereafter awarded on.

Awards made in due time to bind all parties.

141. (i) The award of the arbitrator, or of the arbitrators, or of the umpire, if made in writing under his or their respective hand or hands, and ready to be delivered to the companies within such time as the companies agree on, or, failing such agreement, within thirty days next after the matters in difference are referred to, as the case may be, the arbitrator, or the arbitrators, or the umpire, shall be binding and conclusive on all the companies.

(ii) Except where and as the companies otherwise agree, the umpire, from time to time by writing under his hand, may extend the period within which his award is to be made ; and if it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

Awards not to be set aside for informality.

142. No award made on any arbitration in accordance with this Enactment shall be set aside for irregularity or informality.

Awards to be obeyed.

143. Except only so far as the companies bound by any award in accordance with this Enactment from time to time otherwise agree, all things by every award in accordance with this Enactment lawfully required to be done, omitted, or suffered, shall be done, omitted, or suffered accordingly.

Agreements, arbitrations, and awards to have effect.

144. Full effect shall be given by the Court and by the companies respectively, and otherwise, to all agreements, references, arbitrations, and awards in accordance with this Enactment; and the performance or observance thereof may, where the Court thinks fit, be compelled by any process against the companies respectively or their respective property that the Court shall direct.

Costs of arbitration and award.

145. Except where and as the companies otherwise agree, the costs of and attending the arbitration and the award shall be in the discretion of the arbitrator, and the arbitrators, and the umpire respectively.

Payment of costs.

146. Except where and as the companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the companies in equal shares, and in other respects the companies shall bear their own respective costs.

147. On the application of any party interested the submission to any such arbitration may be filed in the Court and an order of reference may be made thereon, with any directions the Court thinks fit; and the provisions of the Civil Procedure Code shall, so far as the same are applicable, apply to every such order, and to all proceedings thereunder. Submission to arbitration may be filed in Court.

Power to Compromise.

148. (i) Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the Court may, on the application in a summary way of the company or of any creditor or member of the company, or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be summoned in such manner as the Court directs. Power to compromise with creditors and members.

(ii) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Court, be binding on all the creditors or the class of creditors, or on the members or class of members, as the case may be, and also on the company or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.

(iii) In this section the expression "company" means any company liable to be wound up under this Enactment.

Private Company.

149. (i) For the purposes of this Enactment the expression "private company" means a company which by its articles Meaning of "private company."

(*a*) restricts the right to transfer its shares; and

(*b*) limits the number of its members (exclusive of persons who are in the employment of the company, and of persons who, having been formerly in the employment of the company, were, while in such employment, and have continued after the determination of such employment to be, members of the company) to fifty; and

(*c*) prohibits any invitation to the public to subscribe for any shares or debentures of the company.

(ii) Where default is made in complying with any of the provisions which, by sub-section (i), are required to be included in the articles of a company in order to constitute the company a private company, the company shall cease to be entitled to the privileges and exemptions conferred on private companies under the provisions of Section 29 (iii), of Sections 116 and 117, and of paragraph (*d*) of Section 156, and thereupon the said provisions shall apply to the company as if it were not a private company. Companies.

(iii) If the Court is satisfied that the failure to comply with the conditions was accidental or due to inadvertence or to some other sufficient cause, or that on other grounds it is just and equitable to grant relief, it may, on the application of the company or any other person interested and on such terms and conditions as seem to the Court just and expedient, order that the company be relieved from such consequences as aforesaid.

(iv) Every private company shall send with the annual list of members and summary required to be sent under Section 29 a certificate signed by a director or the secretary that the company has not, since the date of the last return, or in the case of a first return since the date of the incorporation of the company, issued any invitation to the public to subscribe for any shares or debentures of the company ; and, where the list of members discloses the fact that the number of members of the company exceeds fifty, also a certificate so signed that such excess consists wholly of persons who under sub-section (i) are to be excluded in reckoning the number of fifty.

(v) A private company may, subject to anything contained in the memorandum or articles, by passing a special resolution and by filing with the Registrar such a statement in lieu of prospectus as the company, if a public company, would have had to file before allotting any of its shares or debentures, together with such a statutory declaration as the company, if a public company, would have had to file before commencing business, convert itself into a public company.

(vi) Where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this section, be treated as a single member.

PART IV.

WINDING-UP.

Preliminary.

Modes of winding-up.

150. (i) The winding-up of a company may be either

(*a*) by the Court ;

(*b*) voluntary ; or

(*c*) subject to the supervision of the Court.

(ii) The provisions of this Enactment with respect to winding-up shall, unless the contrary appears, apply to the winding-up of a company in any of those modes.

Contributories.

Liabilities as contributories of present and past members.

151. (i) In the event of a company being wound up, every present and past member shall, subject to the provisions of this section, be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities and the costs, charges, and expenses of the winding-up, and for the adjustment of the rights of the contributories among themselves, with the qualifications following :

(*a*) a past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding-up ;

(*b*) a past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member ;

(*c*) a past member shall not be liable to contribute unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Enactment ;

(*d*) in the case of a company limited by shares no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member ;

(*e*) in the case of a company limited by guarantee, no contribution shall be required from any member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up ;

(*f*) nothing in this Enactment shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract ;

(*g*) a sum due to any member of a company, in his character of a member, by way of dividends, profits, or otherwise, shall not be deemed to be a debt of the company, payable to that member in a case of competition between himself and any other creditor not a member of the company ; but any such sum may be taken into account for the purpose of the final adjustment of the rights of the contributories among themselves.

(ii) In the winding-up of a limited company, any director or manager, whether past or present, whose liability is, in pursuance of this Enactment, unlimited, shall, subject to sub-sections (iii), (iv), and (v), in addition to his liability, if any, to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of the winding-up a member of an unlimited company.

(iii) A past director or manager shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding-up.

(iv) A past director or manager shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office.

(v) Subject to the articles of the company, a director or manager shall not be liable to make such further contribution unless the Court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of the winding-up.

(vi) In the winding-up of a company limited by guarantee which has a share capital, every member of the company shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him.

Definition of "contributory."

152. The term "contributory" means every person liable to contribute to the assets of a company in the event of its being wound up, and, in all proceedings for determining and in all proceedings prior to the final determination of the persons who are to be deemed contributories, includes any person alleged to be a contributory.

Nature of liability of contributory.

153. The liability of a contributory shall create a debt accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability.

Contributories in case of death of member.

154. (i) If a contributory dies either before or after he has been placed on the list of contributories, his personal representatives shall be liable in a due course of administration to contribute to the assets of the company in discharge of his liability and shall be contributories accordingly.

(ii) If the personal representatives make default in paying any money ordered to be paid by them, proceedings may be taken for administering the estate of the deceased contributory and of compelling payment thereout of the money due.

Contributories in case of bankruptcy or insolvency of member.

155. If a contributory becomes bankrupt or insolvent, either before or after he has been placed on the list of contributories,

(*a*) the Official Assignee in bankruptcy or the receiver of the insolvent's property, as the case may be, shall represent him for all the purposes of the winding-up, and shall be a contributory accordingly, and may be called on to admit to proof against the estate of the bankrupt or insolvent, or otherwise to allow to be paid out of his assets in due course of law, any money due from the bankrupt or insolvent in respect of his liability to contribute to the assets of the company ; and

(*b*) there may be proved against the estate of the bankrupt or insolvent the estimated value of his liability to future calls as well as calls already made.

WINDING-UP BY COURT.

Circumstances in which company may be wound up by Court.

156. A company may be wound up by the Court

(*a*) if the company has by special resolution resolved that the company be wound up by the Court ; or

(*b*) if default is made in filing the statutory report or in holding the statutory meeting ; or

(*c*) if the company does not commence its business within a year from its incorporation, or suspends its business for a whole year ; or

(*d*) if the number of members is reduced, in the case of a private company, below two, or, in the case of any other company, below seven ; or

(*e*) if the company is unable to pay its debts ; or

(*f*) if the Court is of opinion that it is just and equitable that the company should be wound up.

Company when deemed unable to pay its debts.

157. A company shall be deemed to be unable to pay its debts

(*a*) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding five hundred dollars then due, has served on the company, by leaving the same at its registered office, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor ; or

(*b*) if execution or other process issued on a judgment, decree, or order of any Court in favour of a creditor of the company is returned unsatisfied in whole or in part ; or

(*c*) if it is proved to the satisfaction of the Court that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the Court shall take into account the contingent and prospective liabilities of the company.

Provisions as to applications for winding-up.

158. (i) An application of the Court for a winding-up of a company shall be by petition, presented subject to the provisions of this section either by the company, or by any creditor or creditors, including any contingent or prospective creditor or creditors, contributory or contributories, or by all or any of those parties, together or separately.

(ii) A contributory shall not be entitled to present a petition for winding-up a company unless

(*a*) either the number of members is reduced, in the case of a private company, below two, or, in the case of any other company, below seven ; or

(*b*) the shares in respect of which he is a contributory, or some of them, either were originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months before the commencement of the winding-up, or have devolved on him through the death of a former holder.

(iii) A petition for winding-up a company on the ground of default in filing the statutory report or in holding the statutory meeting shall not be presented by any person except a shareholder, nor before the expiration of fourteen days after the last day on which the meeting ought to have been held.

(iv) The Court shall not give a hearing to a petition for winding-up a company by a contingent or prospective creditor until such security for costs has been given as the Court thinks reasonable, and

until a *primâ facie* case for winding-up has been established to the satisfaction of the Court.

(v) Where a company is being wound up voluntarily or subject to supervision, a petition may be presented by any person authorized in that behalf under the other provisions of this section, but the Court shall not make a winding-up order on the petition unless it is satisfied that the voluntary winding-up or winding-up subject to supervision cannot be continued with due regard to the interest of the creditors or contributories.

Effect of winding-up order.

159. An order for winding-up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory.

Commencement of winding-up by Court.

160. A winding-up of a company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

Power to stay or restrain proceedings against company.

161. At any time after the presentation of a petition for winding-up, and before a winding-up order has been made, the company, or any creditor or contributory, may, where any action or proceeding against the company is pending, apply to the Court for a stay of proceedings or to restrain further proceedings in the action or proceedings, and the Court may, as the case may be, stay or restrain the proceedings accordingly on such terms as it thinks fit.

Powers of Court on hearing petition.

162. (i) On hearing the petition the Court may dismiss it with or without costs, or adjourn the hearing conditionally or unconditionally, or make any interim order, or any other order that it deems just, but the Court shall not refuse to make a winding-up order on the ground only that the assets of the company have been mortgaged or charged to an amount equal to or in excess of those assets, or that the company has no assets.

(ii) Where the petition is presented on the ground of default in filing the statutory report or in holding the statutory meeting, the Court may order the costs to be paid by any person who, in the opinion of the Court, are responsible for the default.

Actions stayed on winding-up order.

163. When a winding-up order has been made, no action or proceeding shall be proceeded with or commenced against the company except by leave of the Court, and subject to such terms as the Court may impose.

Copy of order to be forwarded to Registrar.

164. On the making of a winding-up order, a copy of the order shall forthwith be forwarded by the company to the Registrar, who shall make a minute thereof in his books relating to the company.

Power of Court to stay winding-up.

165. The Court may at any time after an order for winding-up, on the application of any creditor or contributory, and on proof to the satisfaction of the Court that all proceedings in relation to the winding-up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the Court thinks fit.

Court may have regard to wishes of creditors or contributories.

166. The Court may, as to all matters relating to a winding-up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

Official Receiver.

Definition of official receiver.

167. (i) For the purposes of this Enactment so far as it relates to the winding-up of companies by the Court, the term "official receiver" means the Official Assignee of debtors' estates appointed under "The Bankruptcy Enactment, 1912," or, if there is more than one such Official Assignee, then such one of them as the Chief Secretary may appoint, or, if there is no such Official Assignee, then an officer appointed for the purpose by the Chief Secretary.

(ii) Any such officer shall for the purpose of his duties under this Enactment be styled the official receiver.

Statement of company's affairs to be submitted to official receiver.

168. (i) Where the Court has made a winding-up order, there shall be made out and submitted to the official receiver a statement as to the affairs of the company in the prescribed form, verified by affidavit, and shewing the particulars of its assets, debts, and liabilities, the names, residences, and occupations of its creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further and other information as may be prescribed or as the official receiver may require.

(ii) The statement shall be submitted and verified by one or more of the persons who are at the time of the winding-up order the directors, and by the person who is at that time the secretary or other chief officer of the company, or by such of the persons being or having been directors or officers of the company, or having taken part in the formation of the company at any time within one year before the winding-up order, as the official receiver, subject to the direction of the Court, may require to submit and verify the same.

(iii) The statement shall be submitted within fourteen days from the date of the order, or within such extended time as the official receiver or the Court may for special reasons appoint.

(iv) Any person making or concurring in making the statement and affidavit required by this section shall be allowed, and shall be paid by the official receiver, out of the assets of the company, such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the official receiver may consider reasonable, subject to an appeal to the Court.

(v) Any person who, without reasonable excuse, makes default in complying with the requirements of this section, shall be liable to a fine not exceeding one hundred dollars for every day during which the default continues.

(vi) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled by himself or by his agent at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted in pursuance of this section, and to obtain a copy thereof or extract therefrom.

(vii) Any person untruthfully stating himself to be a creditor or contributory shall be guilty of a contempt of Court and shall be punishable accordingly on the application of the liquidator or of the official receiver.

Report by official receiver.

169. (i) Where the Court has made a winding-up order, the official receiver shall, as soon as practicable after receipt of the statement of the company's affairs, submit a preliminary report to the Court

(*a*) as to the amount of capital issued, subscribed, and paid up and the estimated amount of assets and liabilities; and

(*b*) if the company has failed, as to the causes of the failure; and

(*c*) whether in his opinion further enquiry is desirable as to any matter relating to the promotion, formation, or failure of the company or the conduct of the business thereof.

(ii) The official receiver may also, if he thinks fit, make a further report, or further reports, stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation, or by any director or other officer of the company in relation to the company since the formation thereof, and any other matters which in his opinion it is desirable to bring to the notice of the Court.

Liquidators.

Appointment, remuneration, and title of liquidators.

170. (i) For the purpose of conducting the proceedings in winding-up a company and performing such duties in reference thereto as the Court may impose, the Court may appoint a liquidator or liquidators.

(ii) The Court may make such an appointment provisionally at any time after the presentation of a petition and before the making of an order for winding-up.

(iii) If a provisional liquidator is appointed before the making of a winding-up order, the official receiver or any other fit person may be appointed.

(iv) On a winding-up order being made the official receiver shall by virtue of his office become the provisional liquidator and shall continue to act as such until he or another person becomes liquidator and is capable of acting as such.

(v) When a person other than the official receiver is appointed liquidator he shall not be capable of acting as liquidator until he has notified his appointment to the Registrar and given security in the prescribed manner to the satisfaction of the official receiver.

(vi) If more than one liquidator is appointed by the Court, the Court shall declare whether any act by this Enactment required or authorized to be done by the liquidator is to be done by all or any one or more of the persons appointed.

(vii) A liquidator appointed by the Court may resign or, on cause shewn, be removed by the Court.

(viii) A vacancy in the office of a liquidator appointed by the Court shall be filled by the Court. Until so filled the official receiver shall by virtue of his office be the liquidator.

(ix) Where a person other than the official receiver is appointed liquidator, he shall receive such salary or remuneration by way of percentage or otherwise as the Court may direct; and, if more such

persons than one are appointed liquidators, their remuneration shall be distributed among them in such proportions as the Court directs.

(x) A liquidator shall be described as follows :

(*a*) where a person other than the official receiver is liquidator, by the style of " the liquidator " ; and

(*b*) where the official receiver is liquidator, by the style of " the official receiver and liquidator "

of the particular company in respect of which he is appointed and not by his individual name.

(xi) The acts of a liquidator shall be valid notwithstanding any defects that may afterwards be discovered in his appointment or qualification.

Custody of company's property.

171. In a winding-up by the Court the liquidator shall take into his custody, or under his control, all the property and things in action to which the company is or appears to be entitled.

Powers of liquidator.

172. (i) The liquidator in a winding-up by the Court may with the sanction of the Court or of the committee of inspection

(*a*) bring or defend any action or other legal proceeding in the name and on behalf of the company ;

(*b*) carry on the business of the company, so far as may be necessary for the beneficial winding-up thereof ;

(*c*) employ an advocate and solicitor of the Supreme Court or other agent to take any proceedings or do any business which the liquidator is unable to take or do himself ; but the sanction in this case must be obtained before the employment, except in cases of urgency, and in those cases it must be shewn that no undue delay took place in obtaining the sanction.

(ii) The liquidator in a winding-up by the Court may

(*a*) sell the movable and immovable property, and things in action of the company by public auction or private contract, and may transfer the whole thereof to any person or company, or sell the same in parcels ;

(*b*) do all acts and execute, in the name and on behalf of the company, all deeds, receipts, and other documents, and for that purpose use, when necessary, the company's seal ;

(*c*) prove, rank, and claim in the bankruptcy or insolvency of any contributory for any balance against his estate, and may receive dividends in the bankruptcy or insolvency in respect of that balance, as a separate debt due from the bankrupt or insolvent, and rateably with the other separate creditors ;

(*d*) draw, accept, make, and indorse any bill of exchange or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if the bill or note had been drawn, accepted, made, or indorsed by or on behalf of the company in the course of its business ;

(*e*) raise on the security of the assets of the company any money requisite ;

(*f*) take out in his official name, letters of administration to any deceased contributory, and may do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company ; and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself ;

(*g*) do all such other things as may be necessary for winding-up the affairs of the company and distributing its assets.

(iii) The exercise by the liquidator of the powers conferred by this section shall be subject to the control of the Court, and the official receiver or any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of those powers.

(iv) Where a liquidator is provisionally appointed by the Court, the Court may limit and restrict his powers by the order appointing him.

Meeting of creditors and contributories.

173. (i) When a winding-up order has been made, the official receiver shall summon separate meetings of the creditors and contributories of the company for the purpose of determining

(*a*) whether or not an application is to be made to the Court for the appointment of a liquidator in the place of the official receiver ; and

(*b*) whether or not an application is to be made to the Court for the appointment of a committee of inspection to act with the liquidator, and who are to be the members of the committee if appointed.

(ii) The Court may make any appointment and order required to give effect to any such determination, and, if there is a difference between the determinations of the meetings of the creditors and contributories in respect of any of the matters mentioned in the foregoing provisions of this section, the Court shall decide the difference and make such order thereon as the Court may think fit.

(iii) In case a liquidator is not appointed by the Court the official receiver shall be liquidator of the company.

Liquidator to give information to official receiver.

174. Where in the winding-up of a company by the Court a person other than the official receiver is appointed liquidator, he shall give the official receiver such information and such access to and facilities for inspecting the books and papers of the company, and generally such aid as may be requisite for enabling that officer to perform his duties under this Enactment.

Payments of liquidator into Treasury.

175. (i) Where in the winding-up of a company by the Court a person other than the official receiver is appointed liquidator, he shall, in such manner and at such times as the official receiver, with the concurrence of the Treasurer, Federated Malay States, directs,

pay the money received by him to the Companies Liquidation Account at the Treasury, and the official receiver shall furnish him with a certificate of receipt of the money so paid.

(ii) If the committee of inspection satisfy the official receiver that for the purpose of carrying on the business of the company or of obtaining advances, or for any other reason, it is for the advantage of the creditors or contributories that the liquidator should have an account with a bank, the official receiver shall, on the application of the committee of inspection, authorize the liquidator to make his payments into and out of such bank as the committee shall select, and thereupon those payments shall be made in the prescribed manner.

(iii) Any such liquidator who at any time retains for more than ten days a sum exceeding five hundred dollars, or such other amount as the official receiver in any particular case authorizes him to retain, shall, unless he explains the retention to the satisfaction of the Court, pay interest on the amount so retained in excess at the rate of twenty per cent. per annum, and shall be liable to disallowance of all or such part of his remuneration as the Court may think just, and to be removed from his office by the Court and shall be liable to pay any expenses occasioned by reason of his default.

(iv) A liquidator of a company which is being wound up by the Court shall not pay any sums received by him as liquidator into his private banking account.

(v) Where the official receiver becomes or is appointed liquidator he shall, in such manner and at such times as the Treasurer, Federated Malay States, may direct, pay the money received by him to the Companies Liquidation Account at the Treasury.

Audit of liquidator's accounts.

176. (i) Where in the winding-up of a company by the Court a person other than the official receiver is appointed liquidator, he shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, send to the official receiver an account of his receipts and payments as liquidator.

(ii) The account shall be in a prescribed form, shall be made in duplicate, and shall be verified by a statutory declaration in the prescribed form.

(iii) The official receiver shall cause the account to be audited and for the purpose of the audit the liquidator shall furnish the official receiver with such vouchers and information as he may require, and the official receiver may at any time require the production of and inspect any books or accounts kept by the liquidator.

(iv) When the account has been audited, one copy thereof shall be filed and kept by the official receiver, and the other copy shall be filed with the Court, and each copy shall be open to the inspection of any creditor, or of any person interested.

(v) The official receiver shall cause the account when audited or a summary thereof to be printed, and shall send a printed copy of the account or summary, by post to every creditor and contributory.

Books to be kept by liquidator.

177. Every liquidator of a company which is being wound up by the Court shall keep, in manner prescribed, proper books in which he

shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the Court, personally or by agent inspect any such books.

Release of liquidators.

178. (i) When the liquidator of a company which is being wound up by the Court has realized all the property of the company, or so much thereof as can, in his opinion, be realized without needlessly protracting the liquidation, and has distributed a final dividend, if any, to the creditors, and adjusted the rights of the contributories among themselves, and made a final return, if any, to the contributories, or has resigned, or has been removed from his office, the official receiver shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the reasonable requirements of the official receiver, the Court shall take into consideration the report, and any objection which may be urged by any creditor, or contributory, or person interested against the release of the liquidator, and may either grant or withhold the release accordingly.

(ii) Where the release of a liquidator is withheld the Court may, on the application of any creditor, or contributory, or person interested, make such order as it thinks fit, charging the liquidator with the consequences of any act or default which he may have done or made contrary to his duty.

(iii) An order of the Court releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of a material fact.

(iv) Where the liquidator has not previously resigned or been removed, his release shall operate as a removal of him from his office.

Exercise and control of liquidator's powers.

179. (i) Subject to the provisions of this Enactment the liquidator of a company which is being wound up by the Court shall, in the administration of the assets of the company and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting, or by the committee of inspection, and any directions given by the creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

(ii) The liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories, by resolution, either at the meeting appointing the liquidator or otherwise, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories as the case may be.

(iii) The liquidator may apply to the Court in manner prescribed for direction in relation to any particular matter arising under the winding-up.

(iv) Subject to the provisions of this Enactment, the liquidator shall use his own discretion in the management of the estate and its distribution among the creditors.

(v) Any person who is aggrieved by any act or decision of the liquidator, may apply to the Court, and the Court may confirm, reverse, or modify the act or decision complained of, and make such order in the premises as it thinks just.

Control over liquidators.

180. (i) When a person other than the official receiver is appointed liquidator, if any complaint is made to the official receiver by any creditor or contributory in regard to the performance or non-performance of the liquidator of the duties imposed on him by this Enactment or rules made thereunder, the official receiver shall enquire into the matter, and take such action thereon as he may think expedient.

(ii) The official receiver may at any time require any liquidator of a company which is being wound up by the Court to answer any enquiry in relation to any winding-up in which he is engaged, and may, if the official receiver thinks fit, apply to the Court to examine him or any other person on oath concerning the winding-up.

(iii) The Court may also direct an investigation to be made of the books and vouchers of the liquidator.

Committee of Inspection, Special Manager, Receiver.

Committee of inspection in winding-up.

181. (i) A committee of inspection appointed in pursuance of this Enactment shall consist of creditors and contributories of the company or persons holding general powers of attorney from creditors or contributories in such proportions as may be agreed on by the meetings of creditors and contributories, or as, in case of difference, may be determined by the Court.

(ii) The committee shall meet at such times as they from time to time appoint, and, failing such appointment, at least once a month ; and the liquidator or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(iii) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present.

(iv) Any member of the committee may resign by notice in writing signed by him and delivered to the liquidator.

(v) If a member of the committee becomes bankrupt or insolvent, or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee without the leave of those members who together with himself represent the creditors or contributories, as the case may be, his office shall thereupon become vacant.

(vi) Any member of the committee may be removed by an ordinary resolution at a meeting of creditors, if he represents creditors, or of contributories, if he represents contributories, of which seven days' notice has been given, stating the object of the meeting.

(vii) On a vacancy occurring in the committee the liquidator shall forthwith summon a meeting of creditors or of contributories, as the case may require, to fill the vacancy, and the meeting may, by resolution, re-appoint the same or appoint another creditor or contributory to fill the vacancy.

(viii) The continuing members of the committee, if not less than two, may act notwithstanding any vacancy in the committee.

(ix) If there is no committee of inspection, any act or thing or any direction or permission by this Enactment authorized or required to be done or given by the committee may be done or given by the official receiver on the application of the liquidator.

Power to appoint special manager.

182. (i) Where the official receiver becomes the liquidator of a company, whether provisionally or otherwise, he may, if satisfied that the nature of the estate or business of the company, or the interests of the creditors or contributories generally, require the appointment of a special manager of the estate or business of the company other than himself, apply to the Court to, and the Court may on such application, appoint a special manager thereof to act during such time as the Court may direct, with such powers, including any of the powers of a receiver or manager, as may be entrusted to him by the Court.

(ii) The special manager shall give such security and account in such manner as the Court directs.

(iii) The special manager shall receive such remuneration as may be fixed by the Court.

Power to appoint official receiver as receiver for debenture holders or creditors.

183. Where an application is made to the Court to appoint a receiver on behalf of the debenture holders or other creditors of a company which is being wound up by the Court, the official receiver may be so appointed.

ORDINARY POWERS OF COURT.

Settlement of list of contributories and application of assets.

184. (i) As soon as may be after making a winding-up order, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Enactment, and shall cause the assets of the company to be collected, and applied in discharge of its liabilities.

(ii) In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

Power to require delivery of property.

185. The Court may, at any time after making a winding-up order, require any contributory for the time being settled on the list of contributories, and any trustee, receiver, banker, agent, or officer of the company to pay, deliver, convey, surrender, or transfer forthwith, or within such time as the Court directs, to the liquidator any money, property, or books and papers in his hands to which the company is *primâ facie* entitled.

Power to order payment of debts by contributory.

186. (i) The Court may, at any time after making a winding-up order, make an order on any contributory for the time being settled on the list of contributories to pay, in manner directed by the order,

any money due from him or from the estate of the person whom he represents to the company, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Enactment.

(ii) The Court in making such an order may, in the case of an unlimited company, allow to the contributory by way of set-off any money due to him or to the estate of the person whom he represents from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit ; and may, in the case of a limited company, make to any director or manager whose liability is unlimited or to his estate the like allowance.

(iii) But in the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

Power of Court to make calls.

187. (i) The Court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability, for payment of any moneys which the Court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of winding-up, and for the adjustment of the rights of the contributories among themselves.

(ii) In making a call the Court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call.

Power to order payment into Treasury.

188. (i) The Court may order any contributory, purchaser, or other person from whom money is due to the company to pay the same into the Treasury to the account of the liquidator instead of to the liquidator, and any such order may be enforced in the same manner as if it had directed payment to the liquidator.

(ii) All moneys and securities paid or delivered into the Treasury in the event of a winding-up by the Court shall be subject in all respects to the orders of the Court.

Order on contributory conclusive evidence.

189. (i) An order made by the Court on a contributory shall, subject to any right of appeal, be conclusive evidence that the money, if any, thereby appearing to be due or ordered to be paid is due.

(ii) All other pertinent matters stated in the order shall be taken to be truly stated as against all persons, and in all proceedings whatsoever.

Power to exclude creditors not proving in time.

190. The Court may fix a time or times within which creditors are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved.

Adjustment of rights of contributories.

191. The Court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto.

Power to order costs.

192. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the

assets of the costs, charges, and expenses incurred in the winding-up in such order of priority as the Court thinks just.

Dissolution of company.

193. (i) When the affairs of a company have been completely wound up, the Court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

(ii) The order shall be reported by the liquidator to the Registrar who shall make in his books a minute of the dissolution of the company.

(iii) Any liquidator who makes default in complying with the requirements of this section shall be liable to a fine not exceeding fifty dollars for every day during which he is in default.

Delegation to liquidator of certain powers of Court.

194. (i) The Chief Judicial Commissioner, with the approval of the Federal Council, may, subject to the provisions of Section 253, make general rules for enabling or requiring all or any of the powers and duties conferred and imposed on the Court by this Enactment, in respect of the matters following, to be exercised or performed by the liquidator as an officer of the Court, and subject to the control of the Court—that is to say, the powers and duties of the Court in respect of

(*a*) holding and conducting meetings to ascertain the wishes of creditors and contributories ;

(*b*) settling lists of contributories and rectifying the register of members where required, and collecting and applying the assets ;

(*c*) requiring delivery of property or documents to the liquidator

(*d*) making calls ;

(*e*) fixing a time within which debt and claims must be proved

(ii) The liquidator shall not, without the special leave of the Court, rectify the register of members, and shall not make any call without either the special leave of the Court or the sanction of the committee of inspection.

Extraordinary Powers of Court.

Power to summon persons suspected of having property of company.

195. (i) The Court may, after it has made a winding-up order, summon before it any officer of the company or any person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or any person whom the Court deems capable of giving information concerning the trade, dealings, affairs, or property of the company.

(ii) The Court may examine such officer or person on oath concerning the same, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.

(iii) The Court may require such officer or person to produce any books and papers in his custody or power relating to the company ; but, where he claims any lien on books or papers produced by him, the production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to such lien.

(iv) The Court may cause to be apprehended and brought before it for examination any person so summoned who, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, not having a lawful impediment, made known to the Court at the time of its sitting and allowed by it.

Power to order public examination of promoters, directors, etc.

196. (i) When an order has been made for winding-up a company by the Court, and the official receiver has made a further report under this Enactment stating that in his opinion a fraud has been committed by any person in the promotion or formation of the company, or by any director or other officer of the company in relation to the company since its formation, the Court may, after consideration of the report, direct that any person who has taken any part in the promotion or formation of the company, or has been a director or officer of the company, shall attend before the Court on a day appointed by the Court for that purpose, and be publicly examined as to the promotion or formation or the conduct of the business of the company, or as to his conduct and dealings as a director or officer thereof.

(ii) The official receiver shall take part in the examination, and for that purpose may, if specially authorized by the Court in that behalf, employ an advocate and solicitor of the Supreme Court.

(iii) The liquidator, where the official receiver is not the liquidator, may also take part in the examination, either personally or by an advocate and solicitor of the Supreme Court.

(iv) The Court may put such questions to the person examined as the Court thinks fit.

(v) The person examined shall be examined on oath, and shall answer all such questions as the Court may put or allow to be put to him.

(vi) A person ordered to be examined under this section shall at his own cost, before his examination, be furnished, if he so desires, with a copy of the official receiver's report, and may at his own cost employ an advocate and solicitor of the Supreme Court, who shall be at liberty to put to him such questions as the Court deems just for the purpose of enabling him to explain or qualify any answers given by him.

(vii) If the person so examined is, in the opinion of the Court, exculpated from any charges made or suggested against him, the Court may allow him such costs as in its discretion it thinks fit.

(viii) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him, and shall be open to the inspection of any creditor or contributory at all reasonable times.

(ix) The Court may, if it thinks fit, adjourn the examination from time to time.

(x) An examination under this section may, if the Court so directs, and subject to general rules, be held before any officer of the Supreme Court named for the purpose by the Court, and the powers of the Court under this section as to the conduct of the examination,

but not as to the costs, may be exercised by the person before whom the examination is held.

Power to arrest absconding contributory.

197. The Court at any time either before or after making a winding-up order, on proof of probable cause for believing that a contributory is about to leave the Federated Malay States, or otherwise to abscond, or to remove or conceal any of his property for the purpose of evading payment of calls, or of avoiding examination respecting the affairs of the company, may cause the contributory to be arrested, and his books and papers and movable property to be seized, and him and them to be safely kept until such time as the Court may order.

Powers of Court cumulative.

198. Any powers by this Enactment conferred on the Court shall be in addition to and not in restriction of any existing powers of instituting proceedings against any contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

Enforcement of and Appeal from Orders.

Power to enforce orders.

199. Orders made by the Court under this Enactment may be enforced in the same manner in which orders made in any suit pending therein may be enforced.

Appeals from orders.

200. (i) Subject to rules of Court, an appeal from any order or decision made or given in the winding-up of a company by the Court under this Enactment shall lie in the same manner and subject to the same conditions as an appeal from any order or decision of the Court in cases within its ordinary jurisdiction.

(ii) No such appeal shall be heard unless notice of the same is given within three weeks from the date of the order or decision complained of, in manner in which notices of appeal are ordinarily given, unless such time is extended by the special leave of the Court of Appeal.

Voluntary Winding-up.

Circumstances in which company may be wound up voluntarily.

201. A company may be wound up voluntarily

(*a*) when the period, if any, fixed for the duration of the company by the articles expires, or the event, if any, occurs, on the occurrence of which the articles provide that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily ;

(*b*) if the company has passed a special resolution that the company be wound up voluntarily ;

(*c*) if the company has passed an extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up.

Commencement of voluntary winding-up.

202. A voluntary winding-up shall be deemed to commence at the time of the passing, or in the case of a special resolution the confirmation, of the resolution authorizing the winding-up.

Effect of voluntary winding-up on status of company.

203. (i) When a company is wound up voluntarily the company shall, from the commencement of the winding-up, cease to carry on its business, except so far as may be required for the beneficial winding-up thereof.

(ii) The corporate state and corporate powers of the company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

Notice of resolution to wind up voluntarily.

204. When a company has passed a special or extraordinary resolution to wind up voluntarily, it shall give notice of the resolution by advertisement in the *Gazette*.

Consequences of voluntary winding-up.

205. The following consequences shall ensue on the voluntary winding-up of a company :

(*a*) the property of the company shall be applied in satisfaction of its liabilities *pari passu*, and, subject thereto, shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company ;

(*b*) the company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them ;

(*c*) on the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance thereof ;

(*d*) the liquidator may, without the sanction of the Court, exercise all powers by this Enactment given to the liquidator in a winding-up by the Court ;

(*e*) the liquidator may exercise the powers of the Court under this Enactment of settling a list of contributories, and of making calls, and shall pay the debts of the company, and adjust the rights of the contributories among themselves ;

(*f*) the list of contributories shall be *primâ facie* evidence of the liability of the persons named therein to be contributories ;

(*g*) when several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or in default of such determination by any number not less than two ;

(*h*) if from any cause whatever there is no liquidator acting, the Court may, on the application of a contributory or a creditor, appoint a liquidator ;

(*i*) the Court may, on cause shewn, remove a liquidator, and appoint another liquidator.

Notice by liquidator of his appointment.

206. (i) The liquidator in a voluntary winding-up shall, within twenty-one days after his appointment, file with the Registrar a notice of his appointment in the prescribed form.

(ii) Any liquidator who fails to comply with the requirements of this section shall be liable to a fine not exceeding fifty dollars for every day during which the default continues.

Rights of creditors in a voluntary winding-up.

207. (i) Every liquidator appointed by a company in a voluntary winding-up shall, within seven days from his appointment, send notice by post to all persons who appear to him to be creditors of the company that a meeting of the creditors of the company will be held on a date, not being less than fourteen nor more than twenty-one days after his appointment, and at a place and hour, to be specified in the notice, and shall also advertise notice of the meeting once in the *Gazette* and once at least in two newspapers circulating in the State where the registered office or principal place of business of the company was situate.

(ii) At the meeting to be held in pursuance of the foregoing provisions of this section the creditors shall determine whether an application shall be made to the Court for the appointment of any person as liquidator in place of or jointly with the liquidator appointed by the company, or for the appointment of a committee of inspection, and, if the creditors so resolve, an application may be made accordingly to the Court at any time, not later than fourteen days after the date of the meeting, by any creditor appointed for the purpose at the meeting.

(iii) On any such application the Court may make an order either for the removal of the liquidator appointed by the company and for the appointment of some other person as liquidator or for the appointment of some other person to act as liquidator jointly with the liquidator appointed by the company, or for the appointment of a committee of inspection either together with or without any such appointment of a liquidator or such other order as, having regard to the interests of the creditors and contributories of the company, seems just.

(iv) No appeal shall lie from any order of the Court upon an application under this section.

(v) The Court shall make such order as to the costs of the application as it thinks fit, and if it is of opinion that, having regard to the interests of the creditors in the liquidation, there were reasonable grounds for the application, may order the costs of the application to be paid out of the assets of the company, notwithstanding that the application is dismissed or otherwise disposed of adversely to the applicant.

Power to fill vacancy in office of liquidator.

208. (i) If a vacancy occurs by death, resignation, or otherwise in the office of liquidator appointed by the company in a voluntary winding-up, the company in general meeting may, subject to any arrangements with its creditors, fill the vacancy.

(ii) For such purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.

(iii) The meeting shall be held in manner prescribed by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the Court.

Delegation of authority to appoint liquidators.

209. (i) A company about to be, or in course of being, wound up voluntarily may, by extraordinary resolution, delegate to its creditors, or to any committee of them, the power of appointing liquidators or any of them, and of supplying vacancies among the liquidators, or enter into any arrangement with respect to the powers to be exercised by the liquidators, and the manner in which they are to be exercised.

(ii) Any act done by creditors in pursuance of any such delegated power shall have the same effect as if it had been done by the company.

Arrangement when binding on creditors.

210. (i) Any arrangement entered into between a company about to be, or in the course of being, wound up voluntarily and its creditors shall, subject to any right of appeal under this section, be binding on the company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

(ii) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the Court against it, and the Court may thereupon, as it thinks just, amend, vary, or confirm the arrangement.

Power of liquidator to accept shares, etc., as consideration for sale of property of company.

211. (i) Where a company is proposed to be, or is in course of being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company, whether such other company be formed and registered under this Enactment or under the Companies Enactment, 1897, of any of the Federated Malay States or in the United Kingdom or in any British Colony or Dependency, in this section called the transferee company, the liquidator of the first-mentioned company, in this section called the transferor company, may, with the sanction of a special resolution of that company, conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive in compensation or part compensation for the transfer or sale, shares, policies, or other like interests in the transferee company, for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the transferee company.

(ii) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(iii) If any member of the transferor company who did not vote in favour of the special resolution at either of the meetings held for passing and confirming the same expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the company within seven days after the confirmation of the resolution, he may require the liquidator either to abstain from carrying the resolution into effect, or to purchase his interest at a price to be determined by agreement or by arbitration in manner provided by Sections 212 to 217.

(iv) If the liquidator elects to purchase the member's interest the purchase money must be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(v) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for winding up the company, or for appointing liquidators ; but, if an order is made within a year for winding up the company by or subject to the supervision of the Court, the special resolution shall not be valid unless sanctioned by the Court.

Appointment of arbitrator when questions are to be determined by arbitration.

212. (i) When any dispute about the price to be paid is to be settled by arbitration, then unless both parties concur in the appointment of a single arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an arbitrator to whom such dispute shall be referred.

(ii) After any such appointment has been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation.

(iii) If for the space of fourteen days after any such dispute has arisen, and after a request in writing has been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fails to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters in dispute ; and in such case the award and determination of such single arbitrator shall be final.

Vacancy of arbitrator to be supplied.

213. (i) If before the matters so referred are determined any arbitrator appointed by either party dies, or becomes incapable or refuses or for seven days neglects to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place.

(ii) If for the space of seven days after notice in writing from the other party for that purpose he fails to do so, the remaining or other arbitrator may proceed *ex parte* ; and every arbitrator so substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of his death, refusal, or disability as aforesaid.

Appointment of umpire.

214. (i) Where more arbitrators than one have been appointed, they shall, before entering upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ.

(ii) If such umpire dies, or refuses or for seven days neglects to act, they shall forthwith after such death, refusal, or neglect appoint another umpire in his place ; and the decision of every such umpire on the matters so referred to him shall be final.

Power of arbitrators to call for books, etc.

215. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the

question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Costs to be in the discretion of arbitrators.

216. The costs of and attending every such arbitration, to be determined by the arbitrators, shall be in the discretion of the arbitrators or their umpire, as the case may be.

Submission to arbitration.

217. On the application of either of the parties, the submission to any such arbitration may be filed in the Court and an order of reference may be made thereon ; and the provisions of the civil Procedure Code shall, so far as the same are applicable, apply to every such order, and to all proceedings thereunder.

Power to apply to Court.

218. (i) Where a company is being wound up voluntarily the liquidator or any contributory or creditor may apply to the Court to determine any question arising in the winding-up, or to exercise, as respects the enforcing of calls, or any other matter, all or any of the powers which the Court might exercise if the company were being wound up by the Court.

(ii) The Court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as the Court thinks fit, or may make such other order on the application as the Court thinks just.

Power of liquidator to call general meeting.

219. (i) Where a company is being wound up voluntarily, the liquidator may summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution, or for any other purposes he thinks fit.

(ii) In the event of the winding-up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding-up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding-up during the preceding year.

Final meeting and dissolution.

220. (i) In the case of every voluntary winding-up, as soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding-up, shewing how the winding-up has been conducted and the property of the company has been disposed of ; and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

(ii) The meeting shall be called by advertisement in the *Gazette* and in two newspapers circulating in the State where the principal place of business of the company was situate, specifying the time, place, and object thereof, and published one month at least before the meeting.

(iii) Within three weeks after the meeting, the liquidator shall make a return to the Registrar of the holding of the meeting, and of its date, and in default of so doing shall be liable to a fine not exceeding fifty dollars for every day during which the default continues.

(iv) The Registrar on receiving the return shall forthwith register it, and on the expiration of three months from the registration of the return the company shall be deemed to be dissolved.

(v) The Court may, on the application of the liquidator or of any other person who appears to the Court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the Court thinks fit.

(vi) The person on whose application an order of the Court under this section is made shall, within seven days after the making of the order, file with the Registrar an office copy of the order, and if he fails so to do he shall be liable to a fine not exceeding fifty dollars for every day during which the default continues.

Costs of voluntary liquidation.

221. All costs, charges, and expenses properly incurred in the voluntary winding-up of a company, including the remuneration of the liquidator, shall be payable out of the assets of the company in priority to all other claims.

Saving for rights of creditors and contributories.

222. The voluntary winding-up of a company shall not bar the right of any creditor or contributory to have it wound up by the Court, if the Court is of opinion, in the case of an application by a creditor, that the rights of the creditor or, in the case of an application by a contributory, that the rights of the contributories will be prejudiced by a voluntary winding-up.

Power of Court to adopt proceedings of voluntary winding-up.

223. Where a company is being wound up voluntarily, and an order is made for winding-up by the Court, the Court may if it thinks fit by the same or any subsequent order provide for the adoption of all or any of the proceedings in the voluntary winding-up.

Winding-up subject to Supervision of Court.

Power to order winding-up subject to supervision.

224. When a company has passed a special or extraordinary resolution to wind up voluntarily, the Court may make an order that the voluntary winding-up shall continue but subject to such supervision of the Court, and with such liberty for creditors, contributories, or others to apply to the Court, and generally on such terms and conditions as the Court thinks just.

Effect of petition for winding-up subject to supervision.

225. A petition for the continuance of a voluntary winding-up subject to the supervision of the Court shall, for the purpose of giving jurisdiction to the Court over actions, be deemed to be a petition for winding-up by the Court.

Court may have regard to wishes of creditors and contributories.

226. The Court may, in deciding between a winding-up by the Court and a winding-up subject to supervision, in the appointment of liquidators, and in all other matters relating to the winding-up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

Power for Court to appoint or remove liquidators.

227. (i) Where an order is made for a winding-up subject to supervision, the Court may by the same or any subsequent order appoint an additional liquidator.

(ii) A liquidator appointed by the Court under this section shall have the same powers, be subject to the same obligations, and in

all respects stand in the same position as if he had been appointed by the company.

(iii) The Court may remove any liquidator so appointed by the Court or any liquidator continued under the supervision order and fill any vacancy occasioned by the removal, or by death or resignation.

Effect of supervision order.

228. (i) Where an order is made for a winding-up subject to supervision, the liquidator may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the company were being wound up altogether voluntarily.

(ii) A winding-up subject to the supervision of the Court shall not be deemed a winding-up by the Court for the purpose of Sections 168, 169, 170, except sub-section (xi), 173 to 183, 194, and 196, but, subject as aforesaid, an order for a winding-up subject to supervision shall for all purposes, including the staying of actions and other proceedings, the making and enforcement of calls, and the exercise of all other powers, be deemed to be an order for winding-up by the Court.

Supplemental Provisions.

Avoidance of transfers, etc., after commencement of winding-up.

229. (i) In the case of voluntary winding-up, every transfer of shares, except transfers made to or with the sanction of the liquidator, and every alteration in the status of the members of the company made after the commencement of the winding-up, shall be void.

(ii) In the case of a winding-up by or subject to the supervision of the Court, every disposition of the property, including things in action, of the company, and every transfer of shares, or alteration in the status of its members, made after the commencement of the winding-up, shall, unless the Court otherwise orders, be void.

Debts of all descriptions to be proved.

230. In every winding-up (subject in the case of insolvent companies to the application in accordance with the provisions of this Enactment of the law of bankruptcy or insolvency) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value.

Application of bankruptcy rules in winding-up of insolvent companies.

231. (i) In the winding-up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of bankruptcy or insolvency with respect to the estates of persons adjudged bankrupt or insolvent.

(ii) All persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may

come in under the winding-up, and make such claims against the company as they respectively are entitled to by virtue of this section.

Preferential payments.

232. (i) In a winding-up there shall be paid in priority to all other debts

(*a*) all rates and taxes due from the company to the Government at the date hereinafter mentioned, and having become due and payable within twelve months next before that date ;

(*b*) all wages or salary of any clerk or servant in respect of services rendered to the company during four months before the said date, not exceeding five hundred dollars ; and

(*c*) all wages of any workman or labourer, whether payable for time or for piece work, in respect of services rendered to the company during two months next before the said date.

(ii) The foregoing debts shall

(*a*) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions ; and

(*b*) so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(iii) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding-up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

(iv) In the event of distraint by a landlord or other person on any goods or effects of the company within three months next before the date of a winding-up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of sale thereof.

(v) In respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(vi) The said date shall be

(*a*) in the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding-up order ; and

(*b*) in any other case, the date of the commencement of the winding-up.

Fraudulent preference.

233. (i) Any conveyance, mortgage, charge, delivery of goods, payment, execution, or other act relating to property which would, if made or done by or against an individual, be deemed in his bankruptcy a fraudulent preference, shall, if made or done by or

against a company, be deemed, in the event of its being wound up, a fraudulent preference of its creditors, and be invalid accordingly.

(ii) For the purposes of this section the presentation of a petition for winding-up in the case of a winding-up by or subject to the supervision of the Court, and a resolution for winding-up in the case of a voluntary winding-up, shall be deemed to correspond with the act of bankruptcy in the case of an individual.

(iii) Any conveyance or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void to all intents.

Avoidance of certain attachments, executions, etc.

234. Where any company is being wound up by or subject to the supervision of the Court, any attachment, distress, or execution put in force against the estate or effects of the company after the commencement of the winding-up shall be void to all intents.

Effect of floating charge.

235. Where a company is being wound up, a floating charge on the undertaking or property of the company created within three months of the commencement of the winding-up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid, except to the amount of any cash paid to the company at the time of or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of six per cent. per annum.

General scheme of liquidation may be sanctioned.

236. (i) The liquidator may

(*a*) in the case of a winding-up by the Court, with the sanction either of the Court or of the committee of inspection; or

(*b*) in the case of a winding-up subject to supervision, with the sanction of the Court; or

(*c*) in the case of a voluntary winding-up, with the sanction of an extraordinary resolution of the company

do the following things or any of them:

(1) pay any classes of creditors in full;

(2) make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages against the company, or whereby the company may be rendered liable;

(3) compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and a contributory, or alleged contributory, or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding-up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability, or claim, and give a complete discharge in respect thereof.

(ii) In the case of a winding-up by the Court any creditor or contributory may apply to the Court, with respect to any exercise or proposed exercise of any of the powers conferred by this section.

Power of Court to assess damages against delinquent directors, etc.

237. (i) Where in the course of winding up a company it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager, or liquidator, or any officer of the company, has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the Court may, on the application of the official receiver, or of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator, or officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance, or breach of trust as the Court thinks just.

(ii) This section shall apply notwithstanding that the offence is one for which the offender may be criminally responsible.

(iii) Where in the case of a winding-up an order for payment of money is made under this section, the order shall be deemed to be a final decree within the meaning of paragraph (i) of sub-section (i) of Section 4 of "The Bankruptcy Enactment, 1912."

Penalty for falsification of books.

238. Any director, officer, or contributory of any company being wound up, who destroys, mutilates, alters, or falsifies any books, papers, or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account, or document belonging to the company with intent to defraud or deceive any person shall be liable to imprisonment of either description for a term which may extend to two years, and also to a fine not exceeding two hundred and fifty dollars.

Prosecution of delinquent directors, etc.

239. (i) If it appears to the Court in the course of a winding-up by or subject to the supervision of the Court that any past or present director, manager, officer, or member of the company has been guilty of any offence in relation to the company for which he is criminally responsible, the Court may, on the application of any person interested in the winding-up or of its own motion, direct the liquidator to prosecute for the offence, and may order the costs and expenses to be paid out of the assets of the company.

(ii) If it appears to the liquidator in the course of a voluntary winding-up that any past or present director, manager, officer, or member of the company has been guilty of any offence in relation to the company for which he is criminally responsible, the liquidator, with the previous sanction of the Court, may prosecute the offender, and all expenses properly incurred by him in the prosecution shall be payable out of the assets of the company in priority to all other liabilities.

Penalty on perjury.

240. Any person who, on examination on oath authorized under this Enactment, or in any affidavit or deposition in or about the

winding-up of any company or otherwise in or about any matter arising under this Enactment, wilfully and corruptly gives false evidence, shall be liable to imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Meeting to ascertain wishes of creditors or contributories.

241. (i) Where by this Enactment the Court is authorized, in relation to winding-up, to have regard to the wishes of creditors or contributories, as proved to it by any sufficient evidence, the Court may, if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held, and conducted in such manner as the Court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the Court.

(ii) In the case of creditors regard shall be had to the value of each creditor's debt.

(iii) In the case of contributories, regard shall be had to the number of votes conferred on each contributory by the articles.

Books of company to be evidence.

242. Where any company is being wound up, all books and papers of the company and of the liquidators shall, as between the contributories of the company, be *primâ facie* evidence of the truth of all matters purporting to be therein recorded.

Inspection of books.

243. After an order for a winding-up by or subject to the supervision of the Court, the Court may make such order for inspection by creditors and contributories of the company of its books and papers as the Court thinks just, and any books and papers in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise.

Disposal of books and papers of company.

244. (i) When a company has been wound up and is about to be dissolved, the books and papers of the company and of the liquidators may be disposed of as follows :

(*a*) in the case of a winding-up by or subject to the supervision of the Court in such way as the Court directs ;

(*b*) in the case of a voluntary winding-up in such way as the company by extraordinary resolution directs.

(ii) After five years from the dissolution of the company no responsibility shall rest on the company, or the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of the same not being forthcoming to any person claiming to be interested therein.

Power of Court to declare dissolution of company void.

245. (i) Where a company has been dissolved, the Court may at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the Court to be interested, make an order, upon such terms as the Court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

(ii) The person on whose application the order was made shall, within seven days after the making of the order, file with the

Registrar an office copy of the order, and in default he shall be liable to a fine not exceeding fifty dollars for every day during which the default continues.

Information as to pending liquidations.

246. (i) Where a company is being wound up, if the winding-up is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding-up is concluded, send to the Registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

(ii) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement, and to receive a copy thereof or extract therefrom.

(iii) Any person who untruthfully so states himself to be a creditor or contributory shall be guilty of a contempt of Court, and shall be punishable accordingly on the application of the liquidator or of the official receiver.

(iv) Any liquidator who fails to comply with the requirements of this section shall be liable to a fine not exceeding five hundred dollars for each day during which the default continues.

(v) If it appears from any such statement or otherwise that a liquidator has in his hands or under his control any money representing unclaimed or undistributed assets of the company which have remained unclaimed or undistributed for six months after the date of their receipt, he shall forthwith pay the same to the Companies Liquidation Account, and shall be entitled to a receipt for the money so paid, and that receipt shall be an effectual discharge to him in respect thereof.

(vi) For the purpose of ascertaining and getting in any money payable to the Companies Liquidation Account in pursuance of this section, the like powers may be exercised, and by the like authority, as are exercisable under Section 128 of "The Bankruptcy Enactment, 1912," for the purpose of ascertaining and getting in the sums, funds, and dividends referred to in that section.

(vii) Any person claiming to be entitled to any money paid to the Companies Liquidation Account in pursuance of this section may apply to the official receiver for payment of the same, and the official receiver may, on a certificate by the liquidator that the person claiming is entitled, make an order for the payment to that person of the sum due.

(viii) Any person dissatisfied with the decision of the official receiver in respect of any claim made in pursuance of this section may appeal to the Court.

(ix) This section shall apply whether the winding-up of the company has commenced before or after the commencement of this Enactment.

Swearing of affidavits.

247. Any affidavit required to be sworn under the provisions or for the purposes of this Part may be sworn in the Federated Malay States or in any place within the dominions of His Britannic Majesty,

before any Court, Judge, or person lawfully authorized to take and receive affidavits and in any other place before any of His said Majesty's Consuls or Vice-Consuls.

Companies Liquidation Account defined.

248. (i) An account, called the Companies Liquidation Account, shall be kept by the official receiver with the Treasury, and all moneys received by the official receiver in respect of proceedings under this Enactment in connection with the winding-up of companies shall be paid to that account.

(ii) All payments out of moneys standing to the credit of the official receiver in the Companies Liquidation Account shall be made by the Treasurer, Federated Malay States, in the prescribed manner.

Separate accounts of particular estates.

249. (i) An account shall be kept by the official receiver of the receipts and payments in the winding-up of each company, and, when the cash balance standing to the credit of the account of any company is in excess of the amount which, in the opinion of the committee of inspection, is required for the time being to answer demands in respect of that company's estate, the official receiver shall, on the request of the committee, invest the amount not so required in securities of one of the classes enumerated in sub-section (ii) of Section 109, to be placed to the credit of the said account for the benefit of the company.

(ii) When any part of the money so invested is, in the opinion of the committee of inspection, required to answer any demands in respect of the estate of the company, the official receiver shall, on the request of the committee, raise such sum as may be required by the sale of such part of the said securities as may be necessary.

(iii) The dividends on investments under this section shall be paid to the credit of the company.

Payment to official receiver of unclaimed assets of dissolved company.

250. (i) In the case of a company which has been dissolved, every person, who at the commencement of this Enactment or subsequently has in his hands or under his control any money representing unclaimed or undistributed assets of such company, shall, within one month from the commencement of this Enactment or from the date on which such money has come into his hands or under his control, send to the official receiver a statement of the particulars of such money and such further information as the official receiver may reasonably require, and shall pay over such money to the official receiver who shall give him a receipt therefor which shall be an effectual discharge in respect thereof, and the official receiver shall pay such money to the Companies Liquidation Account.

(ii) Such money shall include all sums deposited by the liquidator in Court or in any bank or elsewhere, whether in the name or names of any officer of the Court or of the liquidator or of creditors or contributories or of trustees for the benefit of creditors or contributories and whether any cheques, dividend warrants, or other instruments are outstanding against such money or not.

Officers and remuneration.

251. (i) The Chief Secretary may appoint such additional officers as may be required for the execution of this Part, and may remove any person so appointed.

(ii) The Chief Secretary shall direct whether any and what remuneration is to be allowed to any officer or person performing any duties under this Part in relation to the winding-up of companies, and may vary, increase, or diminish that remuneration as he thinks fit.

Accounts of official receiver to be audited.

252. The accounts of the official receiver under this Enactment in relation to the winding-up of companies shall be audited in such manner as the Chief Secretary directs, and the official receiver shall make such returns and give such information as the Chief Secretary directs.

Rules and Fees.

Rules and fees for winding-up.

253. (i) The Chief Judicial Commissioner, with the approval of the Federal Council, may make general rules for carrying into effect the objects of this Enactment so far as relates to the winding-up of companies, and also rules of procedure for the purposes of this Enactment including rules as to costs and fees.

(ii) A copy of all rules made under this section, certified under the hand of the Chief Judicial Commissioner, shall be transmitted by the Chief Judicial Commissioner to the Chief Secretary to be laid before the Federal Council.

(iii) No rule made under this section shall come into operation until it has been approved by a resolution of the Federal Council.

(iv) In approving any such rule the Federal Council may make such alterations therein as it may think fit.

(v) Any rule made and approved as provided in this section shall have the same force and effect as if enacted by this Enactment.

Removal of Defunct Companies from Register.

Registrar may strike defunct company off register.

254. (i) Where the Registrar has reasonable cause to believe that a company is not carrying on business or in operation, he shall send to the company by post a letter enquiring whether the company is carrying on business or in operation.

(ii) If the Registrar does not within one month of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of the month send to the company by post a registered letter referring to the first letter, and stating that no answer thereto has been received, and that if an answer is not received to the second letter within one month from the date thereof, a notice will be published in the *Gazette* with a view to striking the name of the company off the register.

(iii) If the Registrar either receives an answer from the company to the effect that it is not carrying on business or in operation, or does not within one month after sending the second letter receive any answer, he may publish in the *Gazette*, and send to the company by post, a notice that at the expiration of three months from the date of that notice the name of the company mentioned therein will, unless cause is shewn to the contrary, be struck off the register and the company will be dissolved.

(iv) If, in any case where a company is being wound up, the Registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of six consecutive months after notice by the Registrar demanding the returns has been sent by post to the company, or to the liquidator at his last-known place of business, the Registrar may publish in the *Gazette* and send to the company a like notice as is provided in sub-section (iii).

(v) At the expiration of the time mentioned in the notice the Registrar may, unless cause to the contrary is previously shewn by the company, strike its name off the register, and shall publish notice thereof in the *Gazette*, and on the publication in the *Gazette* of this notice the company shall be dissolved.

(vi) The liability, if any, of every director, managing officer, and member of the company shall continue and may be enforced as if the company had not been dissolved.

(vii) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register, the Court on the application of the company or member or creditor may, if satisfied that the company was at the time of the striking off carrying on business or in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if its name had not been struck off.

(viii) The Court may by such order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.

(ix) A letter or notice under this section may be addressed to the company at its registered office, or, if no office has been registered, to the care of some director or officer of the company, or, if there is no director or officer of the company whose name and address are known to the Registrar, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

PART V.

REGISTRATION OFFICE AND FEES.

Registration offices.

255. (i) For the purposes of the registration of companies under this Enactment, there shall be an office or offices in the Federated Malay States at such place or places as the Chief Secretary may think fit.

(ii) The Chief Secretary may appoint such Registrars, Assistant Registrars, clerks, and servants as he may think necessary for the registration of companies under this Enactment, and may make regulations with respect to their duties; and may remove any persons so appointed.

(iii) The salaries of the persons appointed under this section shall be fixed by the Chief Secretary.

(iv) The Chief Secretary may direct a seal or seals to be prepared for the authentication of documents required for or connected with the registration of companies.

(v) Any person may inspect the documents kept by the Registrar on payment of such fees as may be appointed by the Chief Secretary, not exceeding fifty cents for each inspection.

(vi) Any person may require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar, on payment for the certificate, certified copy, or extract, of such fees as the Chief Secretary may appoint, not exceeding three dollars for a certificate of incorporation, and not exceeding twenty-five cents for each folio of a certified copy or extract.

(vii) A copy of or extract from any document kept and registered at any office for the registration of companies, certified to be a true copy under the hand of the Registrar or an Assistant Registrar, shall in all legal proceedings be admissible in evidence as of equal validity with the original document.

Documents to be in English.

256. Every document which is by the provisions of this Enactment required to be registered or recorded by or filed with the Registrar and every document whereof a copy is by the provisions of this Enactment required to be forwarded or sent to the Registrar and every notice served upon the Registrar under the provisions of this Enactment shall be expressed in the English language.

Fees.

257. (i) There shall be paid to the Registrar in respect of the several matters mentioned in Table B in Schedule B the several fees therein specified, or such smaller fees as the Chief Secretary may direct.

(ii) All fees paid to the Registrar in pursuance of this Enactment shall be paid into the Treasury.

PART VI.

APPLICATION OF ENACTMENT TO COMPANIES FORMED AND REGISTERED UNDER THE COMPANIES ENACTMENTS, 1897.

Application of Enactment to companies formed under former Enactment.

258. (i) In the application of this Enactment to existing companies it shall apply in the same manner

(*a*) in the case of a limited company, other than a company limited by guarantee, as if the company had been formed and registered under this Enactment as a company limited by shares ;

(*b*) in the case of a company limited by guarantee, as if the company had been formed and registered under this Enactment as a company limited by guarantee ;

(*c*) in the case of a company other than a limited company, as if the company had been formed and registered under this Enactment as an unlimited company.

(ii) Any reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the "Companies Enactment, 1897," of any of the Federated Malay States.

Application of Enactment to companies registered under former Enactment.

259. (i) This Enactment shall apply to every company registered but not formed under the "Companies Enactment, 1897," of any of the Federated Malay States, in the same manner as it is hereinafter in this Enactment declared to apply to companies registered but not formed under this Enactment.

(ii) Any reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the "Companies Enactment, 1897," of any of the Federated Malay States.

Mode of transferring shares.

260. A company registered under the "Companies Enactment, 1897," of any of the Federated Malay States, may cause its shares to be transferred in manner hitherto in use, or in such other manner as the company may direct.

PART VII.

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ENACTMENT.

Companies capable of being registered.

261. (i) With the exceptions and subject to the provisions mentioned and contained in this section,

(*a*) any company consisting of seven or more members, which was in existence on the thirteenth day of September, 1897; and

(*b*) any company formed after the date aforesaid in pursuance of any Enactment other than this Enactment or of any Act of Parliament, or of letters patent, or being otherwise duly constituted according to law, and consisting of seven or more members,

may at any time register under this Enactment as an unlimited company, or as a company limited by shares, or as a company limited by guarantee; and the registration shall not be invalid by reason that it has taken place with a view to the company being wound up.

(ii) A company having the liability of its members limited by Act of Parliament or letters patent, and not being a joint stock company as hereinafter defined, shall not register in pursuance of this section.

(iii) A company having the liability of its members limited by Act of Parliament or letters patent shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee.

(iv) A company that is not a joint stock company as hereinafter defined shall not register in pursuance of this section as a company limited by shares.

(v) A company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person or by proxy, in cases where proxies are allowed by

the regulations of the company, at a general meeting summoned for the purpose of considering whether the company shall be registered.

(vi) Where a company not having the liability of its members limited by Act of Parliament or letters patent is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person or by proxy at the meeting.

(vii) Where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceased to be a member, and of the costs and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(viii) In computing any majority under this section when a poll is demanded regard shall be had to the number of votes to which each member is entitled according to the regulations of the company.

(ix) A company registered under the "Companies Enactment, 1897," of any of the Federated Malay States, shall not be registered in pursuance of this section.

Definition of joint stock company.

262. (i) For the purposes of this Part, as far as relates to registration of companies as companies limited by shares, a joint stock company means a company having a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons.

(ii) Such a company when registered with limited liability under this Enactment shall be deemed to be a company limited by shares.

Requirements for registration by joint stock companies.

263. Before the registration in pursuance of this Part of a joint stock company, there shall be delivered to the Registrar the following documents :

(*a*) a list shewing the names, addresses, and occupations of all persons who, on a day named in the list not being more than six clear days before the day of registration, were members of the company, with the addition of the shares or stock held by them respectively, distinguishing, in cases where the shares are numbered, each share by its number ; and

(*b*) a copy of any Enactment, Act of Parliament, Royal Charter, letters patent, deed of settlement, contract of co-partnery, or other instrument constituting or regulating the company ; and

(*c*) if the company is intended to be registered as a limited company, a statement specifying the following particulars —that is to say :

(i) the nominal share capital of the company, and the number of shares into which it is divided or the amount of stock of which it consists; and

(ii) the number of shares taken and the amount paid on each share; and

(iii) the name of the company with the addition of the word "limited" as the last word thereof; and

(iv) in the case of a company intended to be registered as a company limited by guarantee, the resolution declaring the amount of the guarantee.

Requirements for registration by other than joint stock companies.

264. Before the registration in pursuance of this Part of any company, not being a joint stock company, there shall be delivered to the Registrar

(*a*) a list shewing the names, addresses, and occupations of the directors or other managers, if any, of the company; and

(*b*) a copy of any Enactment, Act of Parliament, letters patent, deed of settlement, contract of co-partnery, or other instrument constituting or regulating the company; and

(*c*) in the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee.

Authentication of statements of existing companies.

265. The list of members and directors and any other particulars relating to the company required to be delivered to the Registrar shall be verified by a statutory declaration of any two or more directors or other principal officers of the company.

Registrar may require evidence as to nature of company.

266. The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether any company proposing to be registered is or is not a joint stock company as hereinbefore defined.

Exemption of certain companies from payment of fees.

267. No fees shall be charged in respect of the registration in pursuance of this Part of a company if it is not registered as a limited company, or if before its registration as a limited company the liability of the shareholders was limited by some Enactment or some Act of Parliament or by letters patent.

Addition of "Limited" to name.

268. When a company registers in pursuance of this Part with limited liability, the word "limited" shall form and be registered as part of its name.

Certificate of registration of existing companies.

269. On compliance with the requirements of this Part with respect to registration, and on payment of such fees, if any, as are payable under Table B in Schedule B, the Registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Enactment, and in the case of a limited company that it is limited, and thereupon the company shall be incorporated, and shall have perpetual succession and a common seal.

Vesting of property on registration.

270. All property immovable and movable, including things in action, belonging to or vested in a company at the date of its registration in pursuance of this Part, shall on registration pass to

and vest in the company as incorporated under this Enactment for all the estate and interest of the company therein.

Saving for existing liabilities.

271. Registration of a company in pursuance of this Part shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of, the company before registration.

Continuation of existing actions.

272. (i) All actions and other legal proceedings which at the time of the registration of a company in pursuance of this Part are pending by or against the company, or any officer or member thereof, may be continued in the same manner as if the registration had not taken place.

(ii) Execution shall not issue against the effects of any individual member of the company on any judgment, decree, or order obtained in any such action or proceeding.

(iii) In the event of the property and effects of the company being insufficient to satisfy the judgment, decree, or order, an order may be obtained for winding up the company.

Effect of registration under Part VII.

273. When a company is registered in pursuance of this Part, all provisions contained in any Enactment, Act of Parliament, deed of settlement, contract of co-partnery, letters patent, or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidents as if so much thereof as would, if the company had been formed under this Enactment, have been required to be inserted in the memorandum, were contained in a registered memorandum, and the residue thereof were contained in registered articles.

Provisions of Enactment applicable to company registered under Part VII.

274. When a company is registered in pursuance of this Part, all the provisions of this Enactment shall apply to the company, and the members, contributories, and creditors thereof, in the same manner in all respects as if it had been formed under this Enactment, subject as follows :

(*a*) the regulations in Table A in Schedule B shall not apply unless adopted by special resolution ;

(*b*) the provisions of this Enactment relating to the numbering of shares shall not apply to any joint stock company whose shares are not numbered ;

(*c*) subject to the provisions of Section 276, the company shall not have power to alter any provision contained in any Enactment or Act of Parliament relating to the company ;

(*d*) Subject to the provisions of Section 276, the company shall not have power, without the sanction of the Chief Secretary, to alter any provision contained in any letters patent relating to the company ;

(*e*) the company shall not have power to alter any provision contained in a Royal Charter or letters patent with respect to the objects of the company.

Effect of winding-up of company registered under Part VII.

275. (i) In the event of a company registered under this Part being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable

(*a*) to pay or contribute to the payment of any debt or liability of the company contracted before registration ; or

(*b*) to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability ; or

(*c*) to pay or contribute to the payment of the costs and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid.

(ii) Every contributory shall be liable to contribute to the assets of the company, in the course of the winding-up, all sums due from him in respect of any such liability as aforesaid.

(iii) In the event of the death, bankruptcy, or insolvency, of any contributory, the provisions of this Enactment with respect to the personal representatives of deceased contributories and to the assignees of bankrupt or insolvent contributories respectively, shall apply.

Provisions of Enactment applicable to company registered under Enactment notwithstanding constitution of company.

276. The provisions of this Enactment with respect to

(*a*) the registration of an unlimited company as limited ; and

(*b*) the powers of an unlimited company on registration as a limited company to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called up except in the event of winding-up ; and

(*c*) the power of a limited company to determine that a portion of its share capital shall not be capable of being called up except in the event of winding-up ;

shall apply notwithstanding any provisions contained in any Enactment, Act of Parliament, Royal Charter, deed of settlement, contract of co-partnery, letters patent, or other instrument constituting or regulating the company.

Certain provisions in constitution of company not to be altered by company.

277. Nothing in this Part shall authorize the company to alter any such provisions contained in any deed of settlement, contract of co-partnery, letters patent, or other instrument constituting or regulating the company, as would, if the company had originally been formed under this Enactment, have been required to be contained in the memorandum and are not authorized to be altered by this Enactment.

Power to alter constitution vested in company not to be affected.

278. Nothing in this Enactment shall derogate from any power of altering its constitution or regulations which may by virtue of any Enactment, Act of Parliament, deed of settlement, contract of co-partnery, letters patent, or other instrument constituting or regulating the company be vested in the company.

Powers to substitute memorandum and articles for deed of settlement.

279. (i) Subject to the provisions of this section, a company registered in pursuance of this Part may by special resolution alter the form of its constitution by substituting a memorandum and articles for a deed of settlement.

(ii) The provisions of this Enactment with respect to confirmation by the Court and registration of an alteration of the objects of a company shall so far as applicable apply to an alteration under this section with the following modifications :

(*a*) there shall be substituted for the printed copy of the altered memorandum required to be delivered to the Registrar a printed copy of the substituted memorandum and articles ; and

(*b*) on the registration of the alteration being certified by the Registrar the substituted memorandum and articles shall apply to the company in the same manner as if it were a company registered under this Enactment with such memorandum and articles, and the company's deed of settlement shall cease to apply to the company.

(iii) An alteration under this section may be made either with or without any alteration of the objects of the company under this Enactment.

(iv) In this section the expression " deed of settlement " includes any contract of co-partnery or other instrument constituting or regulating the company, not being an Enactment, an Act of Parliament, a Royal Charter, or letters patent.

Power of Court to stay or restrain proceedings.

280. The provisions of this Enactment with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding-up and before the making of a winding-up order shall, in the case of a company registered in pursuance of this Part where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

Action stayed on winding-up order.

281. Where an order has been made for winding-up a company registered in pursuance of this Part no action or proceeding shall be commenced or proceeded with against the company or any contributory of the company in respect of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose.

PART VIII.

WINDING-UP OF UNREGISTERED COMPANIES.

Meaning of unregistered company.

282. For the purposes of this Part the expression " unregistered company " shall not include a company registered under the " Companies Enactment, 1897," of any of the Federated Malay States, or under this Enactment, but, save as aforesaid, shall include any partnership, association, or company consisting of more than seven members.

Winding-up of unregistered companies.

283. (i) Subject to the provisions of this Part, any unregistered company may be wound up under this Enactment, and all the provisions of this Enactment with respect to winding-up shall apply to an unregistered company, with the following exceptions and additions :

(*a*) the principal place of business in the Federated Malay States of an unregistered company shall, for all the purposes of the winding-up, be deemed to be the registered office of the company ;

(*b*) no unregistered company shall be wound up under this Enactment voluntarily or subject to supervision ;

(*c*) the circumstances in which an unregistered company may be wound up are as follows—that is to say :

(1) if the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs ; or

(2) if the company is unable to pay its debts ; or

(3) if the Court is of opinion that it is just and equitable that the company should be wound up ;

(*d*) an unregistered company shall, for the purposes of this Enactment, be deemed to be unable to pay its debts

(1) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding five hundred dollars then due, has served on the company, by leaving at its principal place of business, or by delivering to the secretary or some director, manager, or principal officer of the company, or by otherwise serving in such manner as the Court may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks after the service of the demand neglected to pay the sum, or to secure or compound for it to the satisfaction of the creditor ; or

(2) if any action or other proceeding has been instituted against any member for any debt or demand due, or claimed to be due, from the company, or from him in his character of member, and notice in writing of the institution of the action or proceeding having been served on the company by leaving the same at its principal place of business, or by delivering it to the secretary or some director, manager, or principal officer of the company, or by otherwise serving the same in such manner as the Court may approve or direct, the company has not within ten days after service of the notice paid, secured, or compounded for the debt or demand, or procured the action or proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against the action or proceeding, and against all costs,

damages, and expenses to be incurred by him by reason of the same ; or

(3) if execution or other process issued on a judgment decree or order obtained in any Court in favour of a creditor against the company, or any member thereof as such, or any person authorized to be sued as nominal defendant on behalf of the company, is returned unsatisfied ; or

(4) if it is otherwise proved to the satisfaction of the Court that the company is unable to pay its debts.

(ii) Nothing in this Part shall affect the operation of any Enactment which provides for any partnership, association, or company, being wound up, or being wound up as a company or as an unregistered company, under any Enactment repealed by this Enactment, except that references in any such first-named Enactment to any such repealed Enactment shall be read as references to the corresponding provisions, if any, of this Enactment.

Contributories in winding-up of unregistered companies.

284. (i) In the event of an unregistered company being wound up every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of

(*a*) any debt or liability of the company ; or

(*b*) any sum for the adjustment of the rights of the members among themselves ; or

(*c*) the costs and expenses of winding up the company.

(ii) Every contributory shall be liable to contribute to the assets of the company all sums due from him in respect of any such liability as aforesaid.

(iii) In the event of the death, bankruptcy, or insolvency of any contributory, the provisions of this Enactment with respect to the personal representatives of deceased contributories and to the assignees of bankrupt or insolvent contributories, respectively shall apply.

Power of Court to stay or restrain proceedings.

285. The provisions of this Enactment with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding-up and before the making of a winding-up order shall, in the case of an unregistered company, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

Actions stayed on winding-up.

286. Where an order has been made for winding-up an unregistered company, no action or proceeding shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose.

Direction as to property in certain cases.

287. (i) If an unregistered company has no power to sue and be sued in a common name, or if for any reason it appears expedient, the Court may by the winding-up order, or by any subsequent order,

direct that all or any part of the property, immovable or movable, including things in action, belonging to the company, or to trustees on its behalf, shall vest in the liquidator by his official name, and thereupon the property or the part thereof specified in the order shall vest accordingly.

(ii) The liquidator may, after giving such indemnity, if any, as the Court may direct, bring or defend in his official name any action or other legal proceeding relating to that property, or necessary to be brought or defended for the purposes of effectually winding up the company and recovering its property.

Provisions of this Part cumulative.

288. (i) The provisions of this Part with respect to unregistered companies shall be in addition to and not in restriction of any provisions hereinbefore in this Enactment contained with respect to winding up companies by the Court.

(ii) The Court or liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies formed and registered under this Enactment.

(iii) An unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Enactment, and then only to the extent provided by this Part.

PART IX.

SUPPLEMENTAL.

Legal Proceedings, Offences, etc.

Prosecution of offences.

289. All offences under this Enactment made punishable by any fine may be prosecuted in the Court of a Magistrate of the First Class, and such Court may, notwithstanding anything in any other Enactment contained, award the full punishment with which such offences are punishable.

Application of fines.

290. The Court imposing any fine under this Enactment may direct that the whole or any part thereof be applied in or towards payment of the costs of the proceedings, or in or towards the rewarding the person on whose information or at whose suit the fine is recovered, and subject to any such direction all fines under this Enactment shall be paid into the Treasury.

Costs in actions by certain limited companies.

291. Where a limited company is plaintiff in any action or other legal proceeding, any Court having jurisdiction in the matter may, if it appears by credible evidence that there is reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given.

Power of Court to grant relief in certain cases.

292. If in any proceeding against a director, or person occupying the position of director, of a company for negligence or breach of trust it appears to the Court hearing the case that the director or person is or may be liable in respect of the negligence or breach of trust, but has acted honestly and reasonably, and ought fairly to be excused for the negligence or breach of trust, that Court may

relieve him, either wholly or partly, from his liability on such terms as the Court may think proper.

Penalty for false statement.

293. Any person who, in any return, report, certificate, balance sheet, or other document required by or for the purposes of any of the provisions of this Enactment, wilfully makes a statement false in any material particular, knowing it to be false, shall be liable to imprisonment of either description for a term which may extend to two years.

Penalty for improper use of word "Limited."

294. Any person or persons, who trade or carry on business under any name or title of which "Limited" is the last word, shall, unless duly incorporated with limited liability, be liable to a fine not exceeding fifty dollars for every day upon which that name or title has been used.

Registrar empowered to fine for default in filing documents.

295. (i) Notwithstanding the provisions of this Enactment relating to the recovery of fines, the Registrar is hereby authorized in cases of default in the filing of documents, instead of having recourse to the Court of a Magistrate, to impose a fine not exceeding twenty-five dollars and to order the same to be paid into the Treasury forthwith.

(ii) If default is made in paying the fine imposed, the Registrar shall proceed against the offender in the Court of a Magistrate for the offence committed.

Transitional Provisions.

Saving of pending proceedings for winding-up.

296. (i) The provisions of this Enactment with respect to winding-up shall not, except where they are expressed to have a more extended meaning, apply to any company of which the winding-up has commenced before the commencement of this Enactment.

(ii) Every such company shall be wound up in the same manner and with the same incidents as if this Enactment had not been passed, and, for the purposes of the winding-up, the Enactment under which the winding-up commenced shall be deemed to remain in full force.

Saving of instruments.

297. Every conveyance, mortgage, charge, or other instrument, made before the commencement of this Enactment in pursuance of any Enactment hereby repealed, shall be of the same force as if this Enactment had not been passed, and, for the purposes of that instrument, the repealed Enactment shall be deemed to remain in full force.

Former registration office, registers, etc., continued.

298. (i) Any office existing at the commencement of this Enactment for registration of companies shall be continued as if it had been established under this Enactment.

(ii) Registers of companies kept in any such existing office shall respectively be deemed part of the register or registers of companies to be kept under this Enactment.

(iii) The existing Registrar and other officers in any such office shall, during the pleasure of the Chief Secretary, hold the offices hitherto held by them, but subject to any regulations of the Chief Secretary with regard to the execution of their duties.

SCHEDULES.

Schedule A.

ENACTMENTS REPEALED.

STATE ENACTMENTS.

State.	No. and year.	Short title.	Extent of repeal.
Perak ..	13 of 1897	The Companies Enactment, 1897	The whole
Selangor ..	9 of 1897	Do.	,,
N. Sembilan	11 of 1897	Do.	,,
Pahang ..	19 of 1897	Do.	,,
Perak ..	4 of 1903	The Companies Enactment, 1897, Amendment Enactment, 1903	,,
Selangor ..	2 of 1903	Do.	,,
N. Sembilan	8 of 1903	Do.	,,
Pahang ..	3 of 1903	Do.	,,

FEDERAL ENACTMENTS.

No. and year.	Short title.	Extent of repeal.
9 of 1912	The British and Foreign Companies Enactment, 1912	Section 5
28 of 1914	The Companies Enactments, 1897, Amendment Enactment, 1914	The whole

Schedule B.

TABLE A.

(Sections 3, 13, 14, 67, 274.)

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Preliminary.

1. In these regulations, unless there is something repugnant in the subject or the context, expressions defined in "The Companies Enactment, 1917," or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined ; and words importing the singular shall include the plural, and *vice versâ*, and words importing the masculine gender shall include females, and words importing persons shall include bodies corporate.

Business.

2. The directors shall have regard to the restrictions on the commencement of business imposed by Section 87 of "The Companies Enactment, 1917," if, and so far as, those restrictions are binding upon the company.

Shares.

3. Subject to the provisions, if any, in that behalf of the memorandum of association of the company, and without prejudice to any special rights previously conferred on the holders of existing shares in the company, any share in the company may be issued with such preferred, deferred, or other special rights, or such restrictions, whether in regard to dividend, voting, return of share capital, or otherwise, as the company may from time to time by special resolution determine.

4. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class.

5. No shares shall be offered to the public for subscription except upon the terms that the amount payable on application shall be at least five per cent. of the nominal amount of the share; and the directors shall, as regards any allotment of shares, duly comply with the provisions of Sections 85 and 88 of "The Companies Enactment, 1917."

6. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the common seal of the company specifying the share or shares held by him and the amount paid up thereon, provided that in respect of a share or shares held jointly by several persons the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.

7. If a share certificate is defaced, lost, or destroyed, it may be renewed on payment of such fee, if any, not exceeding one dollar, and on such terms, if any, as to evidence and indemnity as the directors think fit.

8. No part of the funds of the company shall be employed in the purchase of, or in loans upon the security of, the company's shares.

Lien.

9. The company shall have a lien on every share (not being a fully-paid share) for all moneys (whether presently payable or not)

called or payable at a fixed time in respect of that share, and the company shall also have a lien on all shares (other than fully-paid shares) standing registered in the name of a single person, for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause. The company's lien, if any, on a share shall extend to all dividends payable thereon.

10. The company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the lien exists, is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled by reason of his death or bankruptcy or insolvency to the share.

11. The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

Calls on Shares.

12. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares, provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payment) pay to the company at the time or times so specified the amount called on his shares.

13. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

14. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

15. The provisions of these regulations as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

16. The directors may make arrangements on the issue of shares for a difference between the holders in the amount of calls to be paid and in the times of payment.

17. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him ; and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, six per cent.) as may be agreed upon between the member paying the sum in advance and the directors.

Transfer and Transmission of Shares.

18. The instrument of transfer of any share in the company shall be executed both by the transferor and the transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

19. Shares in the company shall be transferred in the following form, or in any usual or common form which the directors shall approve :

I, A. B., of.....in consideration of the sum of dollars.....paid to me by C. D., of.....(hereinafter called "the said transferee") do hereby transfer to the said transferee the share (*or* shares) numbered.....in the undertaking called the.....Company, Limited, to hold unto the said transferee, his executors, administrators, and assigns, subject to the several conditions on which I held the same at the time of the execution hereof : And I, the said transferee, do hereby agree to take the said share (*or* shares) subject to the conditions aforesaid.

As witness our hands the.....day of.....19..

Witness to the signatures.....of, etc.

20. The directors may decline to register any transfer of shares, not being fully-paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The directors may decline to recognize any instrument of transfer unless

(*a*) a fee not exceeding two dollars is paid to the company in respect thereof ; and

(*b*) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to shew the right of the transferor to make the transfer.

21. The executors or administrators of a deceased sole holder of a share shall be the only persons recognized by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the executors or administrators of the deceased survivor, shall be the only persons recognized by the company as having any title to the share.

22. Any person becoming entitled to a share in consequence of the death or bankruptcy or insolvency of a member shall, upon such evidence being produced as may from time to time be required by the directors, have the right, either to be registered as a member in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or bankrupt or insolvent person could have made; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or bankrupt or insolvent person before the death or bankruptcy or insolvency.

23. A person becoming entitled to a share by reason of the death or bankruptcy or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

Forfeiture of Shares.

24. If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

25. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

26. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

27. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

28. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company receive payment in full of the nominal amount of the shares.

29. A statutory declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive

evidence of the facts therein stated as against all persons claiming to be entitled to the share, and that declaration, and the receipt of the company for the consideration, if any, given for the share on the sale or disposition thereof shall constitute a good title to the share, and the person to whom the share is sold or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale, or disposal of the share.

30. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Conversion of Shares into Stock.

31. The directors may, with the sanction of the company previously given in general meeting, convert any paid-up shares into stock, and may with the like sanction re-convert any stock into paid-up shares of any denomination.

32. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations, as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit ; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of that minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

33. The holders of stock shall, according to the amount of the stock held by them, have the same rights, privileges, and advantages as regards dividends, voting at meetings of the company, and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not, if existing in shares, have conferred that privilege or advantage.

34. Such of the regulations of the company (other than those relating to share warrants) as are applicable to paid-up shares shall apply to stock, and the words " share " and " shareholder " therein shall include " stock " and " stock-holder."

Share Warrants.

35. The company may issue share warrants, and accordingly the directors may in their discretion, with respect to any share which is fully paid up, on application in writing signed by the person registered as holder of the share, and authenticated by such evidence, if any, as the directors may from time to time require as to the identity of the person signing the request, and on receiving the certificate, if any, of the share, and the amount of the stamp duty on the warrant and such fee as the directors may from time to time require, issue under the company's seal a warrant, duly stamped,

stating that the bearer of the warrant is entitled to the shares therein specified, and may provide by coupons, or otherwise for the payment of dividends, or other moneys, on the shares included in the warrant.

36. A share warrant shall entitle the bearer to the shares included in it, and the shares shall be transferred by the delivery of the share warrant, and the provisions of the regulations of the company with respect to transfer and transmission of shares shall not apply thereto.

37. The bearer of a share warrant shall, on surrender of the warrant to the company for cancellation, and on payment of such sum as the directors may from time to time prescribe, be entitled to have his name entered as a member in the register of members in respect of the shares included in the warrant.

38. The bearer of a share warrant may at any time deposit the warrant at the office of the company, and so long as the warrant remains so deposited the depositor shall have the same right of signing a requisition for calling a meeting of the company, and of attending and voting and exercising the other privileges of a member at any meeting held after the expiration of two clear days from the time of deposit, as if his name were inserted in the register of members as the holder of the shares included in the deposited warrant. Not more than one person shall be recognized as depositor of the share warrant. The company shall, on two days' written notice, return the deposited share warrant to the depositor.

39. Subject as herein otherwise expressly provided no person shall, as bearer of a share warrant, sign a requisition for calling a meeting of the company, or attend, or vote, or exercise any other privilege of a member at a meeting of the company, or be entitled to receive any notices from the company ; but the bearer of a share warrant shall be entitled in all other respects to the same privileges and advantages as if he were named in the register of members as the holder of the shares included in the warrant, and he shall be a member of the company.

40. The directors may from time to time make rules as to the terms on which, if they shall think fit, a new share warrant or coupon may be issued by way of renewal in case of defacement, loss, or destruction.

Alteration of Capital.

41. The directors may, with the sanction of an extraordinary resolution of the company, increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

42. Subject to any direction to the contrary that may be given by the resolution sanctioning the increase of share capital, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and, after the expiration of that time, or on

the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this article.

43. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture, and otherwise as the shares in the original share capital.

44. The company may, by special resolution

(*a*) consolidate and divide its share capital into shares of larger amount than its existing shares ;

(*b*) by subdivision of its existing shares, or any of them, divide the whole, or any part, of its share capital into shares of smaller amount than is fixed by the memorandum of association, subject, nevertheless, to the provisions of sub-section (i) of Section 41 of "The Companies Enactment, 1917" ;

(*c*) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person ;

(*d*) reduce its share capital in any manner and with, and subject to, any incident authorized, and consent required, by law.

General Meetings.

45. The statutory general meeting of the company shall be held within the period required by Section 65 of "The Companies Enactment, 1917."

46. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

47. The above-mentioned general meetings shall be called ordinary meetings ; all other general meetings shall be called extraordinary.

48. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by Section 66 of "The Companies Enactment, 1917." If at any time there are not within the Federated Malay States sufficient directors capable of acting to form a quorum, any director or any two members of the

company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

Proceedings at General Meeting.

49. Seven days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day, and the hour of meeting and, in case of special business, the general nature of that business shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but the non-receipt of the notice by any member shall not invalidate the proceedings at any general meeting.

50. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, the consideration of the accounts, balance sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

51. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three members personally present shall be a quorum.

52. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and, if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.

53. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

54. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

55. The chairman may, with the consent of any meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

56. At any general meeting a resolution put to the vote of the meeting shall be decided on a shew of hands, unless a poll is (before

or on the declaration of the result of the shew of hands) demanded by at least three members, and unless a poll is so demanded, a declaration by the chairman that a resolution has, on a shew of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against that resolution.

57. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

58. In the case of an equality of votes, whether on a shew of hands or on a poll, the chairman of the meeting at which the shew of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

59. A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

Votes of Members.

60. On a shew of hands every member present in person shall have one vote. On a poll every member shall have one vote for each share of which he is the holder.

61. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders ; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

62. A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a shew of hands or on a poll, by his committee, or other person in the nature of a committee appointed by that Court, and any such committee, or other person may, on a poll, vote by proxy.

63. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

64. On a poll votes nay be given either personally or by proxy.

65. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorized in writing, or, if the appointor is a corporation, either under the common seal, or under the hand of an officer or attorney so authorized. No person shall act as a proxy unless either he is entitled on his own behalf to be present and vote at the meeting at which he acts as proxy, or he has been appointed to act at that meeting as proxy for a corporation.

66. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the

registered office of the company not less than forty-eight hours before the time for holding the meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

67. An instrument appointing a proxy may be in the following form, or in any other form which the directors shall approve :

Company, Limited.

"I.....of.....being a member of the.....Company, Limited, hereby appoint.....of.....as my proxy to vote for me and on my behalf at the [ordinary *or* extraordinary, *as the case may be*] general meeting of the company to be held on the.....day of.....and at any adjournment thereof."

Signed this.....day of.....

Directors.

68. The number of the directors and the names of the first directors shall be determined in writing by a majority of the subscribers of the memorandum of association.

69. The remuneration of the directors shall from time to time be determined by the company in general meeting.

70. The qualification of a director shall be the holding of at least one share in the company, and it shall be his duty to comply with the provisions of Section 73 of " The Companies Enactment, 1917."

Powers and Duties of Directors.

71. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not, by " The Companies Enactment, 1917," or any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulation of these articles, to the provisions of the said Enactment, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting ; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

72. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term, and at such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way and partly in another) as they may think fit, and a director so appointed shall not, while holding that office, be subject to retirement by rotation, or taken into account in determining the rotation of retirement of directors ; but his appointment shall be subject to determination *ipso facto* if he ceases from any cause to be a director, or if the company in general meeting resolve that his tenure of the office of managing director or manager be determined.

73. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company, otherwise than by the issue of share capital, shall not at any time exceed the issued share capital of the company without the sanction of the company in general meeting.

74. The directors shall duly comply with the provisions of "The Companies Enactment, 1917," or any statutory modification thereof for the time being in force, and in particular with the provisions in regard to the registration of the particulars of mortgages and charges affecting the property of the company, or created by it, and to keeping a register of the directors, and to sending to the Registrar an annual list of members, and a summary of particulars relating thereto, and notice of any consolidation or increase of share capital, or conversion of shares into stock, and copies of special resolutions, and a copy of the register of directors and notifications of any changes therein.

75. The directors shall cause minutes to be made in books provided for the purpose

(*a*) of all appointments of officers made by the directors ;

(*b*) of the names of the directors present at each meeting of the directors and of any committee of the directors ;

(*c*) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors,

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

THE SEAL.

76. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of at least two directors and of the secretary or such other person as the directors may appoint for the purpose ; and those two directors and secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

DISQUALIFICATIONS OF DIRECTORS.

77. The office of director shall be vacated, if the director

(*a*) ceases to be a director by virtue of Section 73 of "The Companies Enactment, 1917" ; or

(*b*) holds any other office of profit under the company except that of managing director or manager ; or

(*c*) becomes bankrupt or insolvent ; or

(*d*) is found lunatic or becomes of unsound mind ; or

(*e*) is concerned or participates in the profits of any contract with the company :

Provided, however that no director shall vacate his office by reason of his being a member of any company which has entered

into contracts with or done any work for the company of which he is director : but a director shall not vote in respect of any such contract or work, and if he does so vote his vote shall not be counted.

Rotation of Directors.

78. At the first ordinary meeting of the company the whole of the directors shall retire from office, and at the ordinary meeting in every subsequent year one-third of the directors for the time being, or, if their number is not three or a multiple of three, then the number nearest to one-third, shall retire from office.

79. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall, unless they otherwise agree among themselves, be determined by lot.

80. A retiring director shall be eligible for re-election.

81. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto.

82. If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week at the same time and place, and, if at the adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall be deemed to have been re-elected at the adjourned meeting.

83. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

84. Any casual vacancy occurring in the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

85. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

86. The Company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead ; the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors.

87. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority

of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

88. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall, when the number of directors exceeds three, be three.

89. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

90. The directors may elect a chairman of their meetings and determine the period for which he is to hold office ; but, if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

91. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit ; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on them by the directors.

92. A committee may elect a chairman of their meetings : if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

93. A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

94. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends and Reserve.

95. The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the directors.

96. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

97. No dividend shall be paid otherwise than out of profits.

98. Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid up on any of the shares in the company dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

99. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalizing dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments, other than shares of the company, as the directors may from time to time think fit.

100. If several persons are registered as joint holders of any share any one of them may give effectual receipts for any dividend payable on the share.

101. Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.

102. No dividend shall bear interest against the company.

Accounts.

103. The directors shall cause true accounts to be kept in the English language

of the sums of money received and expended by the company and the matter in respect of which such receipt and expenditure takes place, and

of the assets and liabilities of the company.

104. The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

105. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member, not being a director, shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorized by the directors or by the company in general meeting.

106. Once at least in every year the directors shall lay before the company in general meeting a profit and loss account for the period since the preceding account or, in the case of the first account, since the incorporation of the company, made up to a date not more than six months before such meeting.

107. A balance sheet shall be made out in every year and laid before the company in general meeting made up to a date not more

than six months before such meeting. The balance sheet shall be accompanied by a report of the directors as to the state of the company's affairs, and the amount which they recommend to be paid by way of dividend, and the amount, if any, which they propose to carry to a reserve fund.

108. A copy of the balance sheet and report shall, seven days previously to the meeting, be sent to the persons entitled to receive notices of general meetings in the manner in which notices are to be given hereunder.

AUDIT.

109. Auditors shall be appointed and their duties regulated in accordance with Sections 114 and 115 of "The Companies Enactment, 1917," or any statutory modification thereof for the time being in force.

NOTICES.

110. A notice may be given by the company to any member either personally or by sending it by post to him to his registered address, or, if he has no registered address in the Federated Malay States, to the address, if any, within the Federated Malay States supplied by him to the company for the giving of notices to him.

Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

111. If a member has no registered address in the Federated Malay States and has not supplied to the company an address within the Federated Malay States for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of the company, shall be deemed to be duly given to him on the day on which the advertisement appears.

112. A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder named first in the register in respect of the share.

113. A notice may be given by the company to the persons entitled to a share in consequence of the death or bankruptcy or insolvency of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or receiver of the property of the insolvent, or by any like description, at the address, if any, in the Federated Malay States supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy or insolvency had not occurred.

114. Notice of every general meeting shall be given in some manner hereinbefore authorized to (*a*) every member of the company (including bearers of share warrants) except those members who (having no registered address within the Federated Malay States)

have not supplied to the company an address within the Federated Malay States for the giving of notices to them, and also to (*b*) every person entitled to a share in consequence of the death or bankruptcy or insolvency of a member, who, but for his death or bankruptcy or insolvency, would be entitled to receive notice of the meeting. No other persons shall be entitled to receive notices of general meetings.

TABLE B.

(Sections 257, 269.)

TABLE OF FEES TO BE PAID TO THE REGISTRAR.

I.—By a Company having a Share Capital.	$ c.
For registration of a company whose nominal share capital does not exceed $10,000	50 00
For registration of a company whose nominal share capital exceeds $10,000, the above fee of $50 with the following additional fees, regulated according to the amount of nominal share capital—that is to say :	
For every $5,000 of nominal share capital, or part of $5,000 up to $25,000 ..	$ c. 10 00
For every $5,000 of nominal share capital or part of $5,000 after the first $25,000 up to $500,000	2 50
For every $5,000 of nominal share capital or part of $5,000, after the first $500,000	0 50
For registration of any increase of share capital made after the first registration of the company, the same fees per $5,000 or part of $5,000, as would have been payable if the increased share capital had formed part of the original share capital at the time of registration.	
Provided that no company shall be liable to pay in respect of nominal share capital, on registration or afterwards, any greater amount of fees than $500, taking into account in the case of fees payable on an increase of share capital after registration the fees paid on registration.	
For registration of any existing company, except such companies as are by this Enactment exempted from payment of fees in respect of registration under this Enactment, the same fee as is charged for registering a new company.	
For registering any document by this Enactment required or authorized to be registered, other than the memorandum or the abstract required to be filed with the Registrar by a receiver or manager or the statement required to be sent to the Registrar by the liquidator in a winding-up	3 00
For making a record of any fact by this Enactment required or authorized to be recorded by the Registrar ..	3 00

II.—BY A COMPANY NOT HAVING A SHARE CAPITAL.

For registration of a company whose number of members, as stated in the articles, does not exceed 20	50 00
For registration of a company whose number of members, as stated in the articles, exceeds 20, but does not exceed 100	100 00
For registration of a company whose number of members, as stated in the articles, exceeds 100, but is not stated to be unlimited, the above fee of $100 with an additional fee of $2.50 for every 50 members or less number than 50 members after the first 100.	
For registration of a company in which the number of members is stated in the articles to be unlimited ..	200 00
For registration of any increase in the number of members made after the registration of the company in respect of every 50 members, or less than 50 members, of that increase	3 00
Provided that no company shall be liable to pay on the whole a greater fee than $200 in respect of its number of members, taking into account the fee paid on the first registration of the company.	
For registration of any existing company, except such companies as are by this Enactment exempted from payment of fees in respect of registration under this Enactment, the same fee as is charged for registering a new company.	
For registering any document by this Enactment required or authorized to be registered, other than the memorandum or the abstract required to be filed with the Registrar by a receiver or manager or the statement required to be sent to the Registrar by the liquidator in a winding-up	3 00
For making a record of any fact by this Enactment required or authorized to be recorded by the Registrar ..	3 00

FORM C.

(Section 110.)

FORM OF STATEMENT TO BE PUBLISHED BY BANKING AND INSURANCE COMPANIES, AND DEPOSIT, PROVIDENT, OR BENEFIT SOCIETIES.

[1]The share capital of the company is....., divided into..... shares of.....each.

The number of shares issued is.....

Calls to the amount of.....dollars per share have been made under which the sum of.....dollars has been received.

[1] If the company has no share capital, the portion of the statement relating to capital and shares must be omitted.

The liabilities of the company on the first day of January (*or* July) were :

Debts owing to sundry persons by the company.

On judgment, $.....

On mortgages or bonds, $.....

On notes or bills, $.....

On other contracts, $.....

On estimated liabilities, $.....

The assets of the company on that day were :

Government securities (*stating them*).

Bills of exchange and promissory notes, $.....

Cash at Bankers, $.....

Advances to directors, $....., of which $.....are secured in accordance with the provisions of Section 109.

Advances to officers, $....., of which $.....are secured in accordance with the provisions of Section 109.

Other advances....., of which $.....are secured.

SCHEDULE C.

(Section 82.)

"*The Companies Enactment*, 1917."

STATEMENT IN LIEU OF PROSPECTUS.

.....filed by.....Company, Limited, pursuant to Section 82 of "The Companies Enactment, 1917."

Presented for filing by.....

"*The Companies Enactment*, 1917."

.....LIMITED.

STATEMENT IN LIEU OF PROSPECTUS.

The nominal share capital of the company	$
Divided into	Shares of $....each ,, $.... ,, ,, $.... ,,
Names, descriptions, and addresses of directors or proposed directors	
Minimum subscription (if any) fixed by the memorandum or articles of association on which the company may proceed to allotment	

Number and amount of shares and debentures agreed to be issued as fully or partly paid-up otherwise than in cash The consideration for the intended issue of those shares and debentures	1. . . . shares of $. . . fully paid 2. . . . shares upon which $ . . . per share credited as paid 3. . . . debenture. . . $. . . 4. Consideration :
Names and addresses of (*a*) vendors of property purchased or acquired, or proposed to be (*b*) purchased or acquired by the company Amount (in cash, shares, or debentures) payable to each separate vendor	(*a*) For definition of vendor *see* Section 81 (ii) of "The Companies Enactment, 1917." (*b*) *See* Section 81 (iii) of "The Companies Enactment, 1917."
Amount (if any) paid or payable (in cash or shares or debentures) for any such property, specifying amount (if any) paid or payable for goodwill	Total purchase price $ Cash . . . . $ Shares . . . . $ Debentures. . . . $ Goodwill . . $
Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company, or.	Amount paid ,, payable
Rate of the commission	Rate per cent.
Estimated amount of preliminary expenses	$
Amount paid or intended to be paid to any promoter Consideration for the payment	Name of promoter Amount $ Consideration :
Dates of, and parties to, every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the company or entered into more than two years before the filing of this statement)	
Time and place at which the contracts or copies thereof may be inspected	

Names and addresses of the auditors of the company (if any)	
Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company	
Whether the articles contain any provisions precluding holders of shares or debentures from receiving and inspecting balance sheets or reports of the auditors or other reports	Nature of provisions

(Signatures of the persons above-named as directors or proposed directors, or of their agents authorized in writing) .....
.....
.....
.....

SCHEDULE D.

(Section 94.)

FORM A.

"*The Companies Enactment*, 1917."

Particulars to be supplied to the Registrar pursuant to Section 94 of a mortgage or charge created by the.....Limited, and being

(*a*) a mortgage or charge for the purpose of securing any issue of debentures ; or

(*b*) a mortgage or charge on uncalled share capital of the company ; or

(*c*) a mortgage or charge created or evidenced by an instrument which, if executed by an individual, would require registration as a bill of sale ; or

(*d*) a mortgage or charge on any land wherever situate or any interest therein ; or

(*e*) a mortgage or charge on any book debts of the company ; or

(*f*) a floating charge on the undertaking or property of the company.

Strike out the sub-heads (*a*), (*b*), (*c*), (*d*), (*e*), *or* (*f*), *which do not apply.*

Presented for filing by.....

Particulars of a mortgage or charge created by the.....Limited :

(1)	(2)	(3)	(4)	(5)
Date of the instrument creating or evidencing the mortgage or charge and description thereof.[1]	Amount secured by the mortgage or charge.	Short particulars of the property mortgaged or charged.	Names (with addresses and descriptions) of the mortgagees or persons entitled to the charge.	Amount of the debt outstanding on.....

[1] A description of the instrument—*e.g.*, trust, deed, mortgage, debenture, etc., as the case may be, should be given.

(Signature).....

Designation of position in relation to the company.

Date.....

FORM B.

"*The Companies Enactment*, 1917."

Particulars to be delivered to the Registrar pursuant to Section 94, relating to a series of debentures containing, or giving by reference to any other instrument, any charge, to the benefit of which the debenture holders of the said series are entitled *pari passu* created by the.....Limited.

Presented for filing by.....

Particulars of a series of debentures created by.....Limited :

(1)	(2)	(3)	(4)	(5)	(6)	(7)
Total amount secured by the whole series.	Amount of the issues of the series up to.....	Dates of resolutions authorizing the issue of the series.	Date of the covering deed (if any) by which the security is created or defined ; or, if there is no such deed, the date of the first execution of debentures of the series.	General description of the property charged.	Names of the trustees (if any) for the debenture holders.	Amount outstanding on the ....

(Signature).....

Designation of position in relation to the company.

Date.....

SCHEDULE E.

(Section 120.)

FORM A.

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES.

1*st*.—The name of the company is "The Eastern Steam Packet Company, Limited."

2*nd*.—The registered office of the company will be situate in Selangor.

3*rd*.—The objects for which the company is established are, "the conveyance of passengers and goods in ships or boats between such places as the company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4*th*.—The liability of the members is limited.

5*th*.—The share capital of the company is dollars two hundred thousand divided into one thousand shares of two hundred dollars each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, addresses, and descriptions of subscribers.	Number of shares taken by each subscriber.
1. John Jones of Kuala Lumpur, Merchant ..	200
2. John Smith of ,, ,, ..	25
3. Thomas Green of ,, ,, ..	30
4. John Thompson of ,, ,, ..	40
5. Caleb White of ,, ,, ..	15
6. Andrew Brown of ,, ,, ..	5
7. Caesar White of ,, ,, ..	10
Total shares taken ..	325

Dated the.....day of....., 19...

Witness to the above signatures, ...

A. B. of No. 5, Klyne Street, Kuala Lumpur.

FORM B.

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE, AND NOT HAVING A SHARE CAPITAL.

MEMORANDUM OF ASSOCIATION.

1*st*.—The name of the company is "The Mutual Selangor Marine Association, Limited."

2*nd*.—The registered office of the company will be situate in Selangor.

3*rd*.—The objects for which the company is established are, "the mutual insurance of ships belonging to members of the company, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4*th*.—The liability of the members is limited.

5*th*.—Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and the costs, charges, and expenses of winding-up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding one hundred dollars.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association.

NAMES, ADDRESSES, AND DESCRIPTIONS OF SUBSCRIBERS.

1. John Jones of Kuala Lumpur, Merchant.
2. John Smith of ,, ,,
3. Thomas Green of ,, ,,
4. John Thompson of ,, ,,
5. Caleb White of ,, ,,
6. Andrew Brown of ,, ,,
7. Caesar White of ,, ,,

Dated the.....day of....., 19...

Witness to the above signatures, ...

A. B. of No. 5, Klyne Street, Kuala Lumpur.

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF ASSOCIATION.

NUMBER OF MEMBERS.

1. The company, for the purpose of registration, is declared to consist of five hundred members.

2. The directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

DEFINITION OF MEMBERS.

3. Every person shall be deemed to have agreed to become a member of the company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

GENERAL MEETINGS.

4. The first general meeting shall be held at such time, not being less than one month nor more than three months after the incorporation of the company, and at such place, as the directors may determine.

5. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last

preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

6. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

7. The directors may, whenever they think fit, and shall, on a requisition made in writing by any five or more members, convene an extraordinary general meeting.

8. Any requisition made by the members must state the object of the meeting proposed to be called, and must be signed by the requisitionists and deposited at the registered office of the company.

9. On receipt of the requisition the directors shall forthwith proceed to convene a general meeting: if they do not proceed to cause a meeting to be held within twenty-one days from the date of the requisition being so deposited, the requisitionists or any other five members, may themselves convene a meeting.

Proceedings at General Meetings.

10. Seven days' notice at the least, specifying the place, the day, and the hour of meeting, and in case of special business the general nature of the business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting; but the non-receipt of such a notice by any member shall not invalidate the proceedings at any general meeting.

11. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

12. No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of members is present at the commencement of the business. The quorum shall be ascertained as follows—that is to say, if the members of the company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed thirty.

13. If within one hour from the time appointed for the meeting a quorum of members is not present, the meeting, if convened on the requisition of the members, shall be dissolved; in any other case it shall stand adjourned to the same day in the following week at the same time and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

14. The chairman, if any, of the directors shall preside as chairman at every general meeting of the company.

15. If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of that meeting.

16. The chairman may, with the consent of the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

17. At any general meeting, unless a poll is demanded by at least three members, a declaration by the chairman that a resolution has been carried and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

18. If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

VOTES OF MEMBERS.

19. Every member shall have one vote and no more.

20. If any member is a lunatic or idiot he may vote by his committee, or other legal curator.

21. No member shall be entitled to vote at any meeting unless all moneys due from him to the company have been paid.

22. On a poll votes may be given either personally or by proxy. A proxy shall be appointed in writing under the hand of the appointor, or if such appointor is a corporation, under its common seal.

23. No person shall act as a proxy unless he is a member, or unless he is appointed to act at the meeting as proxy for a corporation.

The instrument appointing him shall be deposited at the registered office of the company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

24. Any instrument appointing a proxy shall be in the following form :

.....Company, Limited.

.....of.....in the State of.....being a member of the..... Company, Limited, hereby appoint.....of.....as my proxy, to vote for me and on my behalf at the (ordinary *or* extraordinary, *as the case may be*) general meeting of the company to be held on the .....day of.....and at any adjournment thereof.

Signed this.....day of....., 19. . .

DIRECTORS.

25. The number of the directors, and the names of the first directors, shall be determined by the subscribers of the memorandum of association.

26. Until directors are appointed the subscribers of the memorandum of association shall for all the purposes of "The Companies Enactment, 1917," be deemed to be directors.

Powers of Directors.

27. The business of the company shall be managed by the directors, who may exercise all such powers of the company as are not, by "The Companies Enactment, 1917," or by any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

Election of Directors.

28. The directors shall be elected annually by the company in general meeting.

Business of Company.

(*Here insert Rules as to mode in which business of Insurance is to be conducted.*)

Audit.

29. Auditors shall be appointed and their duties regulated in accordance with Sections 114 and 115 of "The Companies Enactment, 1917," or any statutory modification thereof for the time being in force, and for this purpose the said sections shall have effect as if the word "members" were substituted for "shareholders," and as if "first general meeting" were substituted for "statutory meeting."

Notices.

30. A notice may be given by the company to any member either personally, or by sending it by post to him to his registered address.

31. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and unless the contrary is proved to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Names, Addresses, and Descriptions of Subscribers.

1. John Smith of Kuala Lumpur, Merchant.
2. John Jones of ,, ,,
3. Thomas Green of ,, ,,
4. John Thompson of ,, ,,
5. Caleb White of ,, ,,
6. Andrew Brown of ,, ,,
7. Caesar White of ,, ,,

Dated the.....day of....., 19 .

Witness to the above signatures,.....

A. B. of No. 5, Klyne Street, Kuala Lumpur.

Form C.

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE, AND HAVING A SHARE CAPITAL.

Memorandum of Association.

1*st*.—The name of the company is "The Malay States Hotel Company, Limited."

2*nd*.—The registered office of the company will be situate in Selangor.

3*rd*.—The objects for which the company is established are "the facilitating travelling in the Federated Malay States, by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4*th*.—The liability of the members is limited.

5*th*.—Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company, contracted before he ceases to be a member, and the costs, charges, and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding twenty dollars.

6*th*.—The share capital of the company shall consist of five hundred thousand dollars, divided into five thousand shares of one hundred dollars each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names :

Names, addresses, and descriptions of subscribers.	Number of shares taken by each subscriber.
1. John Jones of Kuala Lumpur, Merchant ..	200
2. John Smith of ,, ,, ..	25
3. Thomas Green of ,, ,, ..	30
4. John Thompson of ,, ,, ..	40
5. Caleb White of ,, ,, ..	15
6. Andrew Brown of ,, ,, ..	5
7. Caesar White of ,, ,, ..	10
Total shares taken ..	325

Dated the.....day of....., 19...

Witness to the above signatures,.....

A. B. of No. 5, Klyne Street, Kuala Lumpur.

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF ASSOCIATION.

1. The share capital of the company shall consist of five hundred thousand dollars, divided into five thousand shares of one hundred dollars each.

2. The directors may, with the sanction of the company in general meeting, reduce the amount of shares in the company.

3. The directors may, with the sanction of the company in general meeting, cancel any shares belonging to the company.

4. All the article of Table A of " The Companies Enactment,1917," shall be deemed to be incorporated with these articles and to apply to the company.

NAMES, ADDRESSES, AND DESCRIPTIONS OF SHAREHOLDERS.

1. John Jones of Kuala Lumpur, Merchant.
2. John Smith of ,, ,,
3. Thomas Green of ,, ,,
4. John Thompson of ,, ,,
5. Caleb White of ,, ,,
6. Andrew Brown of ,, ,,
7. Caesar White of ,, ,,

Dated the .....day of....., 19. . .

Witness to the above signatures, ...

A. B. of No. 5, Klyne Street, Kuala Lumpur.

FORM D.

MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY HAVING A SHARE CAPITAL.

MEMORANDUM OF ASSOCIATION.

1*st*.—The name of the company is " The Patent Stereotype Company."

2*nd*.—The registered office of the company will be situate in Selangor.

3*rd*.—The objects for which the company is established are " the working of a patent method of founding and casting stereotype plates, of which method....., of Kuala Lumpur, is the sole patentee."

We, the several persons whose names are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, addresses, and descriptions of subscribers.	Number of shares taken by each subscriber.
1. John Jones of Kuala Lumpur, Merchant ..	3
2. John Smith of ,, ,, ..	2
3. Thomas Green of ,, ,, ..	1
4. John Thompson of ,, ,, ..	2
5. Caleb White of ,, ,, ..	2
6. Andrew Brown of ,, ,, ..	1
7. Abel Brown of ,, ,, ..	1
Total shares taken ..	12

Dated the.....day of....., 19...

Witness to the above signatures, ...

A. B. of No. 6, Old Market Square, Kuala Lumpur.

ARTICLES OF ASSOCIATION TO ACCOMPANY THE PRECEDING MEMORANDUM OF ASSOCIATION.

1. The share capital of the company is twenty thousand dollars, divided into two hundred shares of one hundred dollars each.

2. All the articles of Table A of "The Companies Enactment, 1917," shall be deemed to be incorporated with these articles, and to apply to the company.

NAMES, ADDRESSES, AND DESCRIPTIONS OF SUBSCRIBERS.

1. John Jones of Kuala Lumpur, Merchant.
2. John Smith of ,, ,,
3. Thomas Green of ,, ,,
4. John Thompson of ,, ,,
5. Caleb White of ,, ,,
6. Andrew Brown of ,, ,,
7. Abel Brown of ,, ,,

Dated the.....day of....., 19...

Witness to the above signatures,.....

A. B. of No. 6, Old Market Square, Kuala Lumpur.

FORM E AS REQUIRED BY PART II OF THE ENACTMENT.

(Section 29.)

Summary of share capital and shares of the.....Company, Limited, made up to the.....day of.....19.. (being the fourteenth day after the date of the first ordinary general meeting in 19..).

Nominal share capital $..divided into [1] { ....shares of $..each / ....shares of $..each

Total number of shares taken up [1] to the .....day of.....19.. (which number must agree with the total shown in the list as held by existing members)

Number of shares issued subject to payment wholly in cash

Number of shares issued as fully paid up otherwise than in cash .. ..

Number of shares issued as partly paid up to the extent of.....per share otherwise than in cash.. .. ..

[2] There has been called up on each of.....shares .. .. $

There has been called up on each of.....shares .. .. $

[2] There has been called up on each of.....shares .. .. $

[3] Total amount of calls received, including payments on application and allotment .. .. $

Total amount, if any, agreed to be considered as paid on shares.....which have been issued as fully paid up otherwise than in cash .. .. $

Total amount, if any, agreed to be considered as paid on .....shares which have been issued as partly paid up to the extent of.....per share .. .. $

Total amount of calls unpaid .. .. $

Total amount, if any, of sums paid by way of commission in respect of shares or debentures or allowed by way of discount since date of last summary .. .. .. $

Total amount, if any, paid on [4].....shares forfeited .. $

Total amount of shares and stock for which share warrants are outstanding .. .. $

Total amount of share warrants issued and surrendered respectively since date of last summary .. .. .. $

Number of shares or amount of stock comprised in each share warrant.. .. .. $

Total amount of debt due from the company in respect of all mortgages and charges which are required to be registered with the Registrar .. .. $

[1] When there are shares of different kinds or amounts (*e.g.*, Preference and Ordinary, or $1 or $5), state the numbers and nominal values respectively.

[2] Where various amounts have been called or there are shares of different kinds, state them separately.

[3] Include what has been received on forfeited as well as on existing shares.

[4] State the aggregate number of shares forfeited, if any.

Statement in the form of a balance sheet made up to the..... day of....., 19.., containing the particulars of the capital, liabilities, and assets of the company.

The return must be signed at the end by the manager or secretary of the company.

Presented for filing by.....

List of persons holding shares in the.....Company, Limited, on the.....day of....., 19.., and of persons who have held shares therein at any time since the date of the last return, shewing their names and addresses and an account of the shares so held.

Folio in Register Ledger containing particulars.	Names, Addresses, and Occupations.				Account of Shares.					Remarks.
	Surname.	Christian name.	Address.	Occupation.	[1] Number of shares held by existing members at date of return.	[2] Particulars of shares transferred since the date of the last return by persons who are still members.		[2] Particulars of shares transferred since the date of the last return by persons who have ceased to be members.		
						Number.	Date of registration of transfer.	[3] Number.	Date of registration of transfer.	

[1] The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

[2] The date of registration of each transfer should be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor and not opposite that of the transferee, but the name of the transferee may be inserted in the "Remarks" column immediately opposite the particulars of each transfer.

[3] When the shares are of different classes, these columns may be subdivided so that the number of each class held or transferred may be shewn separately.

Names and addresses of the persons who are the directors of the.....Company, Limited, on the.....day of....., 19..

Names.	Addresses.

NOTE.—Banking companies must add a list of all their places of business.

(Signature).....

(State whether manager or secretary).....

FORM F.

(Section 22.)

LICENSE TO HOLD LANDS.

The Chief Secretary to Government hereby licenses the.....to hold the lands hereunder described (*insert description of lands*) [*or* to hold lands not exceeding in the whole.....acres].

The conditions of this license are (*insert conditions, if any*).

.....

Chief Secretary to Government.

ENACTMENT NO. 22 OF 1917.

An Enactment to provide for the Supervision of Aliens engaged in Missionary or Educational Work in the Federated Malay States.

ARTHUR YOUNG,
President of the Federal Council.

[30th November, 1917.
7th December, 1917.]

Preamble.

WHEREAS it is expedient to provide that supervision should be exercised within the Federated Malay States over persons, other than British subjects or subjects of the Ruler of any of the Federated Malay States, engaged in missionary or educational work in the said States :

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Supervision of Alien Missionaries Enactment, 1917," and shall come into force on the publication thereof in the *Gazette*.

Interpretation.

2. For the purposes of this Enactment "alien" means any person other than a British subject or a subject of the Ruler of any of the Federated Malay States.

No alien to land in or enter the Federated Malay States without permit.

3. No alien desiring or intending to engage in missionary or educational work in the Federated Malay States shall land or disembark at any port thereof or enter the said States by railway at any place

(*a*) unless he has in his possession a permit in writing enabling him to enter on such work in the Federated Malay States granted to him within the previous six months by the representative of His Britannic Majesty in the country from which he proceeds ; and

(*b*) until he has satisfied the Harbour Master or his deputy at the port of landing or the railway official in charge of the train by which he enters the Federated Malay States, as the case may be, that he is the person referred to in the permit and has obtained the permission of any such officer to his landing or entry.

Penalty for breach of Section 3.

4. Any such alien as is referred to in Section 3 landing in or entering the Federated Malay States in contravention of that section shall be liable to be dealt with and detained in such manner as the Harbour Master or his deputy or any police officer not below the rank of Inspector may direct, and whilst so detained shall be deemed to be in legal custody.

5. (i) The Chief Secretary to Government may order the deportation of any alien who Deportation of aliens.

(*a*) has landed in or entered the Federated Malay States in contravention of Section 3, or

(*b*) may be engaged in missionary or educational work, and whose presence in the Federated Malay States the Chief Secretary to Government may consider undesirable in the public interest of the said States.

(ii) Where an alien is ordered to be deported under this section he may, until he can be conveniently conveyed to and placed on board or in a ship or railway train about to leave the Federated Malay States, and whilst being conveyed to the ship or train, and whilst on board the ship or in the train, and until the ship or train finally leaves the Federated Malay States, be detained in such manner as the Chief Secretary to Government directs, and whilst so detained shall be deemed to be in legal custody.

6. Any person abetting any alien to land or disembark in, or to enter, the Federated Malay States in contravention of Section 3 shall be guilty of an offence and liable on conviction before the Court of a Magistrate of the First Class to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding one thousand dollars, or to both. Penalty for abetting aliens.

7. A Harbour Master or his deputy or any person authorized by any such officer, or any police officer not below the rank of Inspector, may arrest any alien acting contrary to the provisions of this Enactment or attempting so to do, or any person abetting such alien to act contrary to the provisions hereof, without a warrant and may detain any person so arrested, and whilst so detained such person shall be deemed to be in legal custody. Detention.

8. (i) All aliens who are engaged in missionary or educational work within the Federated Malay States at the date of the coming into force of this Enactment shall within two months from such date furnish to the Resident of the State wherein they are so engaged a return in the form in the schedule or in such other form as the Resident may require. Aliens carrying on missionary or educational work to make returns.

(ii) No alien, excepting those holding the permit mentioned in Section 3 (*a*) or holding a permit issued under the Supervision of Alien Missionaries Ordinance, 1917, of the Colony, shall after the commencement of this Enactment engage in or enter upon missionary or educational work in any State unless he shall have furnished to the Resident of such State a return in the form in the schedule, or in such other form as the Resident may require, and have obtained permission from him to enter upon such work. Provided that it shall not be necessary for an alien who has obtained in any State of the Federated Malay States such permission as aforesaid in terms not expressly limited to the State wherein the same is granted to obtain, while the same remains in force, permission under this section in any other State of the Federated Malay States.

9. If any question arises under this Enactment whether any person is an alien or not, the burden of proving that that person is not an alien shall be upon that person. Burden of proof.

Rules.

10. (i) The Chief Secretary to Government may make rules for defining the classes of persons liable to make returns or obtain permission, and generally for carrying into effect the provisions of this Enactment, and may by rule prescribe as penalty, on conviction before the Court of a Magistrate of the First Class, for breach of any rule made and published under this section imprisonment of either description for a term not exceeding one year, or a fine not exceeding one thousand dollars, or both.

(ii) All rules made under this section shall be published in the *Gazette*.

SCHEDULE.

FORM OF RETURN.

1. Name in full (*designation to be stated*, Reverend, Mr., Mrs., or Miss, etc.).....

2. Parentage, that is :

(*a*) Father's name in full.....

(*b*) Mother's (maiden) name in full.....

3. Present address.....

4. Date of birth.....

5. Place and country of birth.....

6. Nationality.....

7. Whether holder of a passport from his (her) Government.....

8. If male, whether applicant has served in the armed forces of his country, and if so, how long.....

9. Whether previously in the British Empire, and if so, places of residence, with dates.....

10. Name of mission or educational body to which applicant is attached.....

11. Place, town, or district in which he (she) is working.....

12. Name and address of person or persons, not more than three, who will furnish information as to applicant, if applied to (i)..... (ii)..... (iii).....

ENACTMENT NO. 23 OF 1917.

An Enactment to provide for the Improvement of Towns.

ARTHUR YOUNG,
President of the Federal Council.

[30th November, 1917.
7th December, 1917.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

PART I.

PRELIMINARY.

Short title and commencement.

1. This Enactment may be cited as "The Town Improvement Enactment, 1917," and shall come into force upon the publication thereof in the *Gazette*.

Interpretation.

2. In this Enactment unless the context otherwise requires—

"Advocate" means an advocate and solicitor of the Supreme Court ;

"Chairman," "Health Officer," "building," and "street" have the meanings assigned to those expressions, respectively, in "The Sanitary Boards Enactment, 1916" ;

"Collector" and "State land" have the meanings assigned to those expressions, respectively, in "The Land Enactment, 1911" ; and

"Sanitary Board" means a Sanitary Board appointed under the provisions of "The Sanitary Boards Enactment, 1916."

PART II.

IMPROVEMENT SCHEMES.

Powers of Sanitary Boards.

3. Subject to the provisions of this Enactment, every Sanitary Board shall, within the area subject to its control, have power

(*a*) to initiate, execute, and enforce improvement schemes under this Enactment ;

(*b*) to administer for the purpose of such improvement schemes such funds as may from time to time be put at its disposal by the Government ; and

(*c*) to do all such things as may be necessary or proper for the due discharge of any of the functions assigned to it by this Enactment.

Matters to be provided for in improvement schemes.

4. An improvement scheme may provide for all or any of the following matters :

(*a*) The acquisition, by purchase, exchange, or otherwise, of any property necessary for or affected by the execution of the scheme ;

(*b*) The relaying out of any land comprised in the scheme ;

(*c*) The redistribution of sites, to whomsoever belonging, which are comprised in the scheme ;

(*d*) The closure or demolition of dwellings, or portions of dwellings, unfit for human habitation ;

(*e*) The demolition of any building or portion of a building which does not conform to the scheme ;

(*f*) The construction and reconstruction of buildings ;

(*g*) The sale, letting, or exchange of any property comprised in the scheme ;

(*h*) The construction and alteration of streets and back lanes ;

(*i*) The draining, water supply, and lighting of streets so constructed or altered ;

(*j*) The provision of open spaces for the benefit of any area comprised in the scheme or of any adjoining area, and the enlargement of existing open spaces and approaches ;

(*k*) The sanitary arrangements required for the area comprised in the scheme ;

(*l*) The provision of accommodation for persons displaced or likely to be displaced by the execution of the scheme ;

(*m*) The advance of money for the purposes of the scheme ;

(*n*) The provision of facilities for communication ;

(*o*) Any other matter for which, in the opinion of the Resident of the State in which the area comprised in the scheme is situate, it is expedient to make provision with a view to the improvement of such area or to the general efficiency of the scheme.

Power to carry out a scheme in concurrence with property owners.

5. (i) An improvement scheme may provide for the scheme or any part thereof being carried out by, or with the concurrence of, the owners of any properties comprised in the scheme under the superintendence and control of the Sanitary Board and upon such terms and conditions as may be embodied in the scheme.

(ii) Where provision is made in any scheme for the acquisition of any property for the purpose of the scheme, the Sanitary Board may, in lieu of such acquisition, agree with the owner of the property to be acquired that the scheme or any part thereof shall, so far as it relates to such property, be carried out by such owner under the superintendence and control of the Sanitary Board upon such terms and conditions as may be agreed upon.

Types of improvement schemes.

6. An improvement scheme shall be of one of the following types or may combine any two or more of such types or of any special features thereof—that is to say :

(*a*) A general improvement scheme ;

(*b*) A redistribution scheme ;

(*c*) A rebuilding scheme ;

(*d*) A street scheme ;

(*e*) A back lane scheme ;

(*f*) A building scheme.

General improvement scheme.

7. Whenever it appears to any Sanitary Board that, within the area subject to its control,

(*a*) any buildings which are used, or are intended or likely to be used, as dwelling places are unfit for human habitation, or

(*b*) danger to the health of the inhabitants of buildings in any area or in any neighbouring building is caused by

(1) the narrowness, closeness, and bad arrangement and condition of streets or buildings or groups of buildings in such area, or

(2) the want of light or ventilation or proper conveniences in such area, or

(3) any other sanitary defects in such area,

and that the most satisfactory method of dealing with the evils connected with such buildings and the sanitary defects in such area is a general improvement scheme, the Board may pass a resolution to the effect that such area is an insanitary area and that a general improvement scheme ought to be framed in respect of such area and may then proceed to frame such a scheme.

Redistribution scheme.

8. (i) In any case in which any Sanitary Board shall be of opinion that in connection with any improvement scheme it is desirable to make arrangements for a redistribution of sites, it may frame a scheme (herein called a "redistribution scheme") for the said purpose.

(ii) A redistribution scheme shall, so far as practicable, and subject to the requirements of special cases, be based upon the following principles :

(*a*) The amalgamation, for the purpose of the redistribution, of all sites, whether the same be State land or land owned or held, under whatsoever title, by any person, together with all roads, streets, or other open spaces dedicated to public use or customarily used by the public ;

(*b*) The allotment of an equivalent area in respect of such roads, streets, and open spaces, together with such additional area as may be necessary for the purpose of forming roads, streets, and open spaces for the service of the redistributed sites ;

(*c*) The assignment to each site owner of a site equivalent or proportionate in extent and value, or both combined, to his original site ;

(*d*) The preservation to each site owner of such special advantages in the way of position, frontage, or otherwise as were attached to his original site ;

(*e*) The concentration of all sites belonging to the same owner into a single site.

(iii) The owner of any site which by virtue of the smallness of its extent would under the scheme be rendered useless as a building site may call upon the Board to acquire such site, and the same shall in such case be acquired.

(iv) A redistribution scheme may provide for

(*a*) the demolition of any building the continued existence whereof would be inconsistent with the scheme ;

(*b*) the payment of compensation in respect of such demolition, or, alternatively, the advance to the owner, upon such terms and conditions as to interest and otherwise as may be prescribed in the scheme, of such sum as may be necessary to assist him to erect another building upon the site defined as belonging to him under the scheme and, if he shall so require, a further sum not exceeding one year's rental of the demolished building ;

(*c*) the extinction of any existing easement and the provision of any new easement necessary for the enjoyment of any site assigned to any owner under the scheme ;

(*d*) the payment of compensation to any individual owner for any special disadvantage in the site assigned to him under the scheme ;

(*e*) the payment of an equivalent by any individual owner in respect of any special advantage in the site assigned to him under the scheme, and the disposal of the sum so paid ;

(*f*) the acquisition of any site, or part of a site, the acquisition of which would facilitate the execution or the operation of the scheme.

(v) All sums advanced under paragraph (*b*) of sub-section (iv) shall be recoverable in the same manner and by the same process as a rate and in such number of annual instalments as may be specially provided in the scheme.

Rebuilding scheme.

9. (i) Where after the passing of a resolution under Section 7 to the effect that any area is an insanitary area the Sanitary Board shall further resolve that, regard being had to the comparative value of the buildings in such area and of the sites upon which they are erected, the most satisfactory method of dealing with the area or any part thereof is a rebuilding scheme, it shall frame a scheme in accordance with the provisions of this section and shall serve notice of such resolution upon the owners or reputed owners of all properties to be comprised in the scheme.

(ii) A rebuilding scheme may provide for

(*a*) the reservation of streets, back lanes, and open spaces and the enlargement of existing streets, back lanes, and open

spaces, to such an extent as may be necessary for the purposes of the scheme ;

(*b*) the relaying out of the sites of the area upon such streets, back lanes, or open spaces so reserved or enlarged ;

(*c*) the payment of compensation in respect of any such reservation or enlargement, and the construction of the streets, back lanes, and open spaces so reserved or enlarged to the extent and in the manner hereinafter provided ;

(*d*) the demolition without compensation of the existing buildings and their appurtenances by the owners, or by the Sanitary Board in default of the owners, and the erection of buildings by the said owners, upon the sites as defined under the scheme, in accordance with the scheme ;

(*e*) the advance to the owners, upon such terms and conditions as to interest and otherwise as may be prescribed in the scheme, of such sums as may be necessary to assist them to erect new buildings in accordance with the scheme and, if any owner shall so require, a further sum not exceeding one year's rental of the original building belonging to such owner ;

(*f*) the acquisition of any site or building, or part of a site or building, included in the area comprised in the scheme ;

(*g*) the exemption of any site or building from the operation of the scheme.

(iii) In any case in which under sub-section (ii) any street is reserved or enlarged to the extent of not less than forty feet in width, or in which any open space is reserved or enlarged for the purpose of the scheme, compensation shall be payable to the owners of all sites the area of which shall be prejudicially affected by such reservation or enlargement, and every such street or open space shall be constructed by the Sanitary Board. In the case of all other reservations or enlargements the street or lane so reserved or enlarged shall be deemed to be dedicated to public use by the owners of the sites in which it is situated, or by the owners of the sites comprised in the scheme collectively, and every such street or lane shall be constructed by the Board.

(iv) The owner of any building comprised in the scheme who shall satisfy the Sanitary Board that arrangements for the proper scavenging and draining of the building are reasonably practicable and that none of the inhabited rooms of the building is unfit for human habitation may, at any time within one month after being served with a notice under sub-section (i), require the Board either to acquire the site on which the building stands or to exempt such site or building from the operation of the scheme.

(v) Where the demolition of any building is undertaken by the Board in default of the owner under sub-section (ii) (*d*), the materials of the demolished building may be appropriated by the Board or sold to defray the expense of the demolition.

(vi) When the sanction of the High Commissioner to a scheme under this section shall have been notified in the *Gazette* in accordance

with Section 16, then upon such date as may in each case be specified in the scheme in that behalf all leases and all rights of occupancy, not being leases or rights granted or created by the Government, with respect to any site or building comprised in the area shall, except in the case of a site or building exempted from the operation of the scheme, be deemed to be terminated.

Provided that any lessee under a lease so terminated shall be entitled to claim from his lessor an equivalent lease in respect of any site defined as belonging to such lessor under the scheme and, if the lease includes a building, of the building to be erected upon the site so assigned, or at the option of the lessor to compensation in respect of the unexpired term of the original lease upon the basis of the value of the original lease.

(vii) All sums advanced in pursuance of any scheme framed under this section shall be recoverable in the same manner and by the same process as a rate and in such number of annual instalments as may be specially provided in the scheme.

Street scheme

10. (i) Whenever any Sanitary Board is of opinion that, for the purpose of providing building sites or of remedying the defective ventilation of any part of the area subject to its control or of creating new or increasing the existing means of communication and facilities for traffic between various parts of the said area or for improving or extending the amenities of the said area, it is expedient to form new public streets or thoroughfares or to alter existing public streets or thoroughfares in any part of the said area, it may frame a scheme (herein called a "street scheme") accordingly.

(ii) A street scheme may, within the limits of the area comprised in the scheme, provide for

(*a*) the acquisition of any land which will, in the opinion of the Sanitary Board, be necessary for the execution of the scheme ;

(*b*) the relaying out of all or any of the lands so acquired, including the construction and reconstruction of buildings and the laying out, construction, and alteration of streets and thoroughfares ;

(*c*) the draining, water supply, and lighting of streets and thoroughfares so laid out, constructed, or altered ;

(*d*) the raising, lowering, or reclamation of any land which is State land or which is to be acquired for the purposes of the scheme ;

(*e*) the formation of open spaces for the better ventilation of the area comprised in the scheme ;

(*f*) the acquisition of any land adjoining any street, thoroughfare, or open space to be formed under the scheme.

Back lane scheme.

11. (i) Where a Sanitary Board is of opinion that any part of the area subject to its control which is in whole or in part occupied, or likely to be occupied, by buildings should be provided with back lanes for the scavenging of the same, it may frame a scheme (herein

called a " back lane scheme ") for the purpose of providing back lanes of a width not less than ten feet and not exceeding twenty feet for such area.

(ii) For the purpose of any such scheme there shall be acquired

(*a*) any land covered with buildings which it is necessary to acquire for the purpose of providing access to any proposed back lane from any existing street or back lane ; and

(*b*) any other land covered with buildings situated within the lines of the proposed back lanes.

No compensation shall be payable in respect of any other land within the lines of the proposed back lanes, but all such land shall be deemed to be dedicated by the owners for the purpose of the proposed back lanes.

(iii) Where the acquisition of any land within the lines of the proposed back lanes (not being land required for the purpose of providing access from any existing street or back lane), or the setting apart of any land for the purpose of the back lanes, would cause a severance of land held by any person under grant or Government lease from other land held by the same person under the same title, no compensation shall be paid for such severance ; but if any portion of the land so severed shall have been rendered useless as a building site on account of the severance, and if the owner so requires, such portion shall also be acquired.

(iv) The construction of the proposed back lanes shall be undertaken by the Sanitary Board and the cost of the acquisition of any land required for such back lanes and the cost of such construction shall be apportioned by the Board among the several owners of the land served by the said back lanes in such manner as may be determined in the scheme, and the share of the cost so apportioned to any owner shall be due from him and shall be recoverable in the same manner and by the same process as a rate.

(v) When any back lane is formed under this Enactment, the owner of any premises abutting on such back lane, and the owner of any premises adjacent to such back lane who enjoys a right of way thereto, shall provide to the satisfaction of the Board a means of access and egress to and from his premises from and to such back lane for scavenging purposes ; and if the owner fails to provide the same within a reasonable time, the Sanitary Board or any officer authorized by it in that behalf may enter the premises and do whatever may be necessary to provide the same, and the amount of the expenses so incurred shall be recoverable from the owner in the same manner and by the same process as a rate.

Building scheme.

12. (i) Whenever any Sanitary Board is of opinion that any land within the area subject to its control is in course of development or is likely to be used for building purposes, it may frame a scheme (herein called a " building scheme ") shewing the streets, back lanes, and open spaces which it deems necessary to secure proper sanitary conditions, amenity, and convenience in connection with the laying out and use of such land and of any neighbouring lands.

(ii) A scheme under this section may provide for the demarcation by the Board of such streets, back lanes, and open spaces, and for all or any of the following matters—viz. :

(*a*) The levels of the streets and back lanes ;

(*b*) The line of building frontage ;

(*c*) The mode of drainage of the streets and back lanes ;

(*d*) The rounding of the corners of the streets.

(iii) After the sanction of the High Commissioner to a scheme under this section shall have been notified in the *Gazette* in accordance with Section 16, every person who, within the area comprised in the scheme,

(*a*) lays out or constructs, or commences to lay out or construct, any street or back lane or

(*b*) erects, or commences to erect, any building

otherwise than in accordance with the scheme shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred dollars, and the Court of a Magistrate of the First Class may, on the application of the Chairman of the Sanitary Board which framed the scheme, make an order requiring the owner of the street, back lane, or building to alter such street, back lane, or building so as to bring the same into accordance with the scheme or to demolish such building.

(iv) If such order be not complied with, the Court of a Magistrate of the First Class may authorize the Board to carry out the order and to recover the expenses thereby incurred from the owner of the street or building, and such expenses shall thereupon be recoverable in the same manner and by the same process as a rate.

Procedure on completion of a scheme.

13. (i) Upon the completion of the preparation of an improvement scheme the Chairman of the Sanitary Board by which the same was framed shall

(*a*) publish in one issue of the *Gazette* a notification, and during three consecutive weeks in one or more of the newspapers circulating in the district in which the area comprised in the scheme is situate an advertisement, stating the fact of such scheme having been prepared, specifying the area for which it has been prepared and naming a place where a copy of the scheme may be seen, and

(*b*) serve a notice on every owner or reputed owner of any land or building included in the scheme and on every registered chargee, caveator, and person interested or believed to be interested in such land or building stating that such scheme has been prepared and requiring him to signify to the Chairman his assent or dissent in respect thereof within three months from the date of service.

(ii) After compliance with the provisions of sub-section (i) and the signification of assent or dissent in reply to the notices served thereunder or the expiration of the period within which such assent or dissent is required to be notified, as the case may be, the Sanitary Board shall forward to the Resident of the State a copy of the scheme

together with the names of the owners and reputed owners and persons interested, if any, who have signified their dissent from the scheme.

(iii) If on consideration of the scheme and on proof of due compliance with all matters prescribed in sub-sections (i) and (ii) the Resident thinks fit to proceed with the scheme, he shall give to every person who has signified his dissent from the scheme and to the Board an opportunity of being heard, in the case of the Board by a person appointed by it in that behalf or by advocate and in the case of the person dissenting either in person or by advocate.

(iv) If upon the application of the Board or of the owner of any land affected by the scheme the Resident thinks fit to introduce any modification into the scheme, he shall give to every owner or reputed owner of any land or building which would be affected by such modification and to every person known or believed to be interested therein and to the Board an opportunity of being heard in respect of the same in the manner prescribed in sub-section (iii), and may thereafter at his discretion adopt or reject such modification.

(v) After hearing the Board and all persons entitled to be heard under the provisions of sub-sections (iii) and (iv) who attend and desire to be heard the Resident, if he approves the scheme with or without modifications, shall publish in the *Gazette* a notification, and in one or more of the newspapers circulating in the district in which the area comprised in the scheme is situate an advertisement, stating that he has approved the scheme, with or without modifications, as the case may be, and naming a place where a copy of the scheme as approved may be seen.

Submission of scheme to the High Commissioner.

14. (i) Every improvement scheme which has been approved by the Resident of a State shall be submitted for sanction to the High Commissioner.

(ii) Every submission for sanction shall be accompanied by

(*a*) a description of, and full particulars relating to, the scheme and estimates of the cost of executing the same and particulars as to the manner in which such cost is to be met or recouped ;

(*b*) a statement of the names of the owners and reputed owners of, and persons interested in, any land or building affected by the scheme who have signified dissent from the scheme and of the grounds of such dissent ; and

(*c*) a statement of the reasons for any modifications introduced into the scheme by the Resident.

Sanction by the High Commissioner.

15. (i) The High Commissioner may sanction or may refuse to sanction any improvement scheme submitted to him, or he may refer any such scheme for further consideration to the Resident by whom the same was approved.

(ii) Sanction to any such scheme may be given either absolutely or subject to such conditions and modifications as the High Commissioner may think fit.

(iii) Where the Resident upon further consideration of a scheme referred to him under sub-section (i) thinks fit to introduce any modification into the scheme, the same procedure shall be followed as is prescribed by Section 13 with respect to modifications, and where any modification is adopted notice thereof shall be published in the manner prescribed by Section 13 (v).

Notification of sanction and effect thereof.

16. (i) The sanction of the High Commissioner to an improvement scheme shall be announced by notification in the *Gazette* and upon the publication of such notification the Board which framed the scheme shall take measures for its execution.

(ii) A scheme so sanctioned may be carried into execution notwithstanding the terms of any caveat lodged in respect of land under "The Registration of Titles Enactment, 1911," or "The Land Enactment, 1911."

Alteration of scheme after sanction.

17. At any time after a scheme has been sanctioned and before it has been completely carried into execution the High Commissioner, on proof to his satisfaction that an improvement can be made in the details of the scheme, may modify the scheme accordingly.

Provided that before any such modification is adopted every owner or reputed owner of, and person known or believed to be interested in, any land or building which would be affected by such modification shall be given an opportunity of being heard in such manner as may be directed by the High Commissioner.

PART III.

OBSTRUCTIVE BUILDINGS.

Representation by Health Officer.

18. If the Health Officer to any Sanitary Board finds that any building within the area subject to the control of the Board, whether in itself unfit for habitation or not, is so situate by reason of its proximity to or contact with any other building or buildings that it causes one of the following effects—that is to say,

(*a*) it stops or impedes ventilation or otherwise makes, or conduces to make, such other building or buildings, or any part of such building or buildings, to be in a condition unfit for human habitation or dangerous or injurious to health ; or

(*b*) it prevents proper measures from being carried into effect for remedying any nuisance injurious to health or other evils complained of in respect of such other buildings,

the Health Officer shall represent to the Sanitary Board the particulars relating to such first-mentioned building (herein referred to as an "obstructive building"), stating that in his opinion it is expedient that the obstructive building or any part thereof should be demolished.

Board may make order for demolition.

19. (i) The Board on receiving any such representation as is in Section 18 mentioned

(*a*) shall cause a report to be made to it respecting the circumstances of the building and the cost of demolishing the building or part thereof and acquiring the land, and

(*b*) on receiving such report shall take into consideration the representation and the report and,

(*c*) if it decides to proceed, shall cause a copy of both the representation and the report to be given to the owner of the land on which the obstructive building stands with notice of the time and place appointed by the Board for the consideration thereof.

(ii) The owner of the land shall be at liberty to attend at the time and place notified and state his objections, and after hearing such objections the Board shall make an order either allowing the objections or directing that such obstructive building or part thereof be demolished. Notice of such order shall be served upon the owner of the land.

(iii) Any owner aggrieved by an order of the Board under this section may within fourteen days after notice of the order shall have been served upon him appeal to the Resident of the State, and no work shall be done nor proceedings taken under such order until after the appeal has been determined. At the hearing of the appeal by the Resident the owner aggrieved may be heard personally or by advocate and the Board may be heard by a person appointed by it in that behalf or by advocate. The decision of the Resident on the hearing of any such appeal shall be final.

Acquisition of site of obstructive building.

20. Where an order is made under this Part for the demolition of an obstructive building or part of a building and either no appeal is made against the order or an appeal is made and fails or is abandoned, the land on which the obstructive building or part of a building stands may be acquired.

Notice by owner desiring to retain land.

21. The owner of any land which it is proposed to acquire in pursuance of Section 20 may, within one month after notice of the proposed acquisition has been served upon him, inform the Board that he desires to retain such land and undertake either to demolish the obstructive building or part of a building standing thereon or to permit the Board to demolish it, and in such case the owner shall be entitled to retain the land and shall receive compensation from the Board for the demolition of the building or part of a building.

Apportionment of betterment.

22. (i) Where in the opinion of the Sanitary Board which has ordered the demolition of an obstructive building or part of a building such demolition adds to the value of such other buildings as are in that behalf mentioned in Section 18, the Board shall, after service of notice upon the owners of such other buildings and after giving them an opportunity of being heard, apportion among such other buildings, respectively, so much of the compensation to be paid for the demolition of the obstructive building or part of a building as may be equal to the increase in value of such other buildings.

(ii) Every sum apportioned upon a building under this section shall be recoverable in the same manner and by the same process as a rate.

(iii) Any person aggrieved by an apportionment under this section may appeal to the Resident of the State, and the decision of the Resident shall be final.

PART IV.

INSANITARY DWELLINGS.

Interpretation of "dwelling-house."

23. In this Part, unless the context otherwise requires, the expression "dwelling-house" includes any habitable room forming part of a dwelling-house, and all the provisions of this Part shall apply to any such room in the same manner as to an entire dwelling-house.

Closing order by Magistrate.

24. (i) If on the representation of the Health Officer to any Sanitary Board or on other information given any dwelling-house used for human habitation appears to the Sanitary Board to be unfit for human habitation, it shall be the duty of the Chairman to apply to the Court of a Magistrate of the First Class to make an order (herein referred to as a "closing order") prohibiting the use for human habitation of such dwelling-house until such dwelling-house has been rendered fit for that purpose, and such Court, after giving the owner of the dwelling-house an opportunity of being heard, shall have power to make such order accordingly.

(ii) When a closing order has been made, the Chairman shall cause to be affixed in a conspicuous place on the dwelling-house a notice requiring all persons occupying such dwelling-house to quit the premises within such period, not being less than seven days, as may be specified in the notice.

(iii) Subject to any order made on appeal, a closing order shall become operative, notwithstanding any appeal that may be lodged against it, on the expiration of the period fixed by such notice, or, if the dwelling-house to which the order relates be earlier vacated, then from the date when it is so vacated, or if the dwelling-house is vacant on the date when the order is made, then on the date of the order.

(iv) The Court of a Magistrate of the First Class may cancel a closing order if satisfied that the dwelling-house in respect of which the same was made is, or has been rendered, fit for human habitation.

Marking of closed premises.

25. (i) Where a closing order has been made under this Part, the Chairman of the Sanitary Board may cause to be conspicuously marked upon the door of the dwelling-house in respect of which such closing order has been made such words or letters in English, Malay, Chinese, or Tamil as will indicate that such dwelling-house is unfit for human habitation.

(ii) No person shall, while the closing order continues operative, remove, deface, or obscure any words or letters so marked.

Offences.

26. (i) Any person, who, while a closing order is operative in respect of any dwelling-house, shall lease or let such dwelling-house for the purpose of human habitation, or allow such dwelling-house to be used for human habitation, shall be guilty of an offence and liable on conviction to a fine not exceeding twenty dollars for each day on which such dwelling-house shall be inhabited.

(ii) Any person, who, while a closing order is operative, shall remove, deface, or obscure any words or letters marked upon any

door under Section 25 shall be guilty of an offence and liable on conviction to a fine not exceeding fifty dollars and for a second or subsequent offence of the same kind to imprisonment for a term not exceeding six months.

(iii) Any person inhabiting a dwelling-house in respect of which a closing order has been made who shall, after such closing order becomes operative, continue to inhabit such dwelling-house, and any person who after a dwelling-house has been vacated under a closing order shall, while such closing order continues operative, inhabit such dwelling-house, shall be guilty of an offence and liable on conviction to a fine not exceeding ten dollars for each day on which he shall inhabit such dwelling-house.

Order by Magistrate for demolition.

27. Where a closing order has remained operative for a period of three months, the Board shall take into consideration the question of the demolition of the dwelling-house and, if it is satisfied

(*a*) that the dwelling-house has not been rendered fit for human habitation and that the necessary steps are not being taken with all due diligence to render it so fit, or

(*b*) that it is dangerous or injurious to the health of the public or of the inhabitants of the neighbouring dwelling-houses,

may direct the Chairman to make a complaint to the Court of a Magistrate of the First Class, and such Court, after giving the owner of the dwelling-house an opportunity of being heard, may make an order for the demolition of such dwelling-house within a time to be specified in such order. The order may also contain a direction that the materials of the dwelling-house be destroyed.

Execution of order for demolition.

28. Where an order for the demolition of a dwelling-house has been made, the owner thereof shall within the time specified in such order take down and remove the dwelling-house and, if the order for demolition so directs and to the extent therein mentioned, destroy the materials thereof; and if the owner fails therein, the Board shall proceed to take down and remove the dwelling-house and, if the order for demolition so directs and to the extent therein mentioned, destroy the materials and may recover the cost of such work from the owner in the manner prescribed in Section 48 of "The Sanitary Boards Enactment, 1916."

Appeal against closing order or order for demolition.

29. An appeal shall lie to the Court of a Judicial Commissioner against any closing order or order for the demolition of a dwelling-house made under this Part, and the procedure prescribed for appeals to the said Court in criminal matters shall, so far as the same may be applicable, apply to such appeal. The decision of the Court of a Judicial Commissioner in the matter of any such appeal shall be final.

PART V.

ACQUISITION AND COMPENSATION.

Acquisition proceedings.

30. Where for the purposes of this Enactment any land is to be acquired and the amount of the compensation to be paid in respect thereof has not been settled by agreement, the Resident of the State in which the land is situate may declare that the land is

needed for a public purpose and thereupon such land may be acquired in the manner provided in Part VII of "The Land Enactment, 1911."

Compensation other than for land.

31. Where compensation is payable under this Enactment otherwise than in respect of the acquisition of land, such compensation shall be assessed as nearly as may be in the manner provided in Part VII of "The Land Enactment, 1911."

Special provisions for determining compensation for land.

32. In determining the amount of compensation to be awarded in respect of any land acquired under this Enactment

(*a*) the estimate of the value of the land shall be based on the fair market value thereof at the date of the first publication of the advertisement of the improvement scheme under Section 13, due regard being had to the nature and the condition of the property and in the case of buildings to their probable duration in their existing state and to the state of repair thereof, without any additional allowance in respect of the compulsory nature of the acquisition ;

(*b*) no improvement of the land acquired and no addition to or improvement of any building thereon made after the date of the first publication of the advertisement of the improvement scheme under Section 13 shall (unless such addition or improvement was necessary for the maintenance of the building in a proper state of repair or unless it was carried out under the special written authority of the Chairman) be included, nor in the case of any interest acquired after the said date shall any separate estimate of the value thereof be made so as to increase the amount of compensation ;

(*c*) regard shall be had to any increase in the value of any other land belonging to the person interested likely to accrue from the acquisition of the land ; and

(*d*) the annual rent of any building or land shall not be deemed to be greater than the annual value of the same as assessed under the provisions of "The Sanitary Boards Enactment, 1916" ; provided that, where any addition or improvement has been made to any building or land after the date of the last assessment made under the said Enactment and previous to the date of the first publication of the advertisement of the improvement scheme under Section 13, regard may be had to any increase in the letting value of the building or land due to such addition or improvement.

PART VI.

MISCELLANEOUS PROVISIONS.

Cancellation of old, and issue of new, documents of title when land is redistributed or relaid out under a scheme.

33. (i) Upon the publication in the *Gazette* of the sanction of the High Commissioner to any scheme providing for a redistribution of sites or a relaying out of sites, then, except in so far as the scheme may provide to the contrary,

(*a*) all land comprised in the scheme which is required by the scheme to be redistributed or relaid out shall for the purposes of such redistribution or relaying out be deemed to be State land and all right, title, and interests in respect thereof which were theretofore vested in any person shall be extinguished, and the documents of title under which such land was held shall be forthwith delivered up at the Land Office of the district in which the area comprised in the scheme is situated in order that the same may be cancelled ; and

(*b*) the Resident of the State shall issue to the several persons amongst whom the said land is redistributed or relaid out under the scheme such new grants, leases, or other documents of title as may be necessary in order that they may hold the sites assigned to them, respectively, under the scheme upon the same terms and conditions and for the same interests on and for which they severally held their original sites immediately prior to the publication of the said sanction in the *Gazette*.

(ii) Every new document of title issued to any person in pursuance of the scheme and of this section shall, except in so far as the scheme may provide to the contrary, be subject to the same charges or other incumbrances, trusts, and restrictions, if any, whereto the document of title in lieu whereof such new document of title has been issued to such person was subject immediately prior to the publication of the said sanction in the *Gazette*, and so that chargees and other incumbrancers or persons (other than the owners) who were immediately prior to the publication of the said sanction in the *Gazette* interested in land which is redistributed or relaid out under the scheme shall, except as aforesaid, have, as nearly as may be, the same remedies and rights against and in the land held by any person under a new document of title issued in pursuance of the scheme and of this section as they severally had against and in the land held by such person under the document of title in lieu of which such new document of title has been issued.

(iii) The Registrar of Titles or Collector, as the case may be, for the district in which the area comprised in the scheme is situated shall perform all such acts and make such entries in the books of his office as may be necessary to give effect to the provisions of this section.

(iv) The Resident of the State may, in the case of any act of registration or record required to be performed under the provisions of this section, remit at his discretion any fee prescribed to be paid therefor.

(v) Any person who without reasonable excuse shall fail or neglect to deliver up at the Land Office any document of title required by the provisions of this section so to be delivered up shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred dollars.

(vi) Any person who shall dishonestly and fraudulently use any document of title to land after the right, title, or interests purporting

to be evidenced by such document have been extinguished by the operation of this section shall be deemed to have committed or to have attempted to commit the offence defined in Section 415 of the Penal Code.

Sums to be charged on land.

34. (i) Every sum which by this Enactment is declared to be recoverable in the same manner and by the same process as a rate shall be a charge upon the land in respect of which it is due and shall, notwithstanding anything contained in any Enactment relating to the registration of title to land, take priority of all other charges or incumbrances affecting such land not being charges or incumbrances in favour of the Government of the Federated Malay States or of any of them or the Chief Secretary to Government or the Resident of a State.

(ii) Every such sum shall be collected by the Sanitary Board exercising control within the area in which such land is situate as if such sum were a rate imposed under Section 12 of "The Sanitary Boards Enactment, 1916."

(iii) So soon as any sum becomes under this section a charge on land the title whereto is registered in any Registry of Titles or Land Office, the Resident of the State wherein such land is situate may certify such sum under his hand and official seal together with particulars of the document or documents of title to the land whereon such sum is charged, and the Registrar of Titles or Collector, as the case may be, shall on production to him of such certificate record the charge in the Register, and shall on production to him thereafter of a certificate under the hand and official seal of the Resident that the sum so charged has been paid or that the charge has been otherwise satisfied make an entry in the Register that the charge is discharged.

(iv) A Sanitary Board to which any such sum is due may in its discretion, with the approval of the Resident of the State, in lieu of enforcing the immediate payment of the amount due, take engagements from the owner of the land or building in respect of which the sum is due for the payment by instalments of such sums as will be sufficient to defray the whole amount due, with interest thereon at the rate of six per cent. per annum, within a period not exceeding twenty years, and such sums when due may be recovered in the same manner and by the same process as a rate.

Imposition of a rate.

35. (i) Whenever expenditure is intended to be incurred in the carrying out of an improvement scheme under this Enactment or has in the carrying out of such a scheme been incurred and not met or if met has not been recouped, then for the purpose of meeting or recouping such expenditure the Resident of the State in which the area comprised in the scheme is situate shall, subject to the approval of the Chief Secretary to Government, impose by notification published in the *Gazette* in the year preceding the year in respect whereof the rate is imposed a rate in respect of the next following year, calculated from January to December inclusive, upon all lands and upon all houses and buildings within such area as aforesaid and within such additional area (if any) as may appear

to the Chief Secretary to Government to be benefited or to be likely to be benefited by the said scheme.

(ii) Such rate shall not exceed 5 per centum of the annual value of the lands, houses, and buildings upon which it is imposed and shall be payable by half-yearly instalments in advance without demand by the owners of such lands, houses, or buildings in the months of January and July in each year.

(iii) The said annual value shall be the annual value of the said lands, houses, and buildings as from time to time determined under "The Sanitary Boards Enactment, 1916," and the said rate shall be assessed and collected by the Sanitary Board which framed the scheme in respect of which the same is payable as if the said rate were a rate imposed under Section 12 of the said Enactment.

Service of notices and orders.

36. Where any notice or order is required by this Enactment to be served on the owner or reputed owner of any land or building, such notice or order addressed to the owner may be served in manner following—that is to say :

(*a*) If the owner or reputed owner of such land or building be within the State wherein such land or building is situate, the notice or order may be delivered to him or left with some adult member of his family (other than a servant) residing with him within such State ;

(*b*) If the notice or order cannot be served in the manner described in clause (*a*) or if the owner or reputed owner be not resident within the State wherein the land or building is situate, it may be sent by registered post addressed to him at his residence in any part of the Federated Malay States or in the Colony ;

(*c*) If the notice or order cannot be served in the manner described in clause (*a*) or clause (*b*) or if there be no known or reputed owner of such land or building, the order may be put up on some conspicuous place on the said land or building.

ENACTMENT NO. 26 OF 1917.

An Enactment to provide means for the protection of Lands from the inroad of Silt and other matter.

ARTHUR YOUNG,
President of the Federal Council.

[30th November, 1917.
7th December, 1917.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Silt (Control) Enactment, 1917," and shall come into force on the publication thereof in the *Gazette*.

Interpretation.

2. (i) In this Enactment the expression "the Resident" means with reference to any land and to matters concerning any land the Resident of the State wherein such land is situate ; the expression "State land" has the meaning assigned thereto in "The Land Enactment, 1911" ; and where reference is made to land owned by any person or to owners of land, such reference includes land leased to any person and the lessee of land so leased and land occupied under authority granted in pursuance of Rule 5 of "The Land Rules, 1904," and the occupier of such land.

(ii) Nothing in this Enactment contained refers to land held under mining lease or other mining title.

Notice to shew cause against order.

3. (i) Whenever it appears to the Resident of a State on grounds to be recorded by him in writing that earth, mud, or silt from land in such State owned by any person has caused or is likely to cause damage to other land or has interfered or is likely to interfere with the due cultivation of other land, the Resident may by notice served upon the owner of such first mentioned land require him to shew cause, at a time and place to be stated in the notice, why an order should not be made under this Enactment prohibiting him from doing, or requiring him to do, any act or thing which may under Section 6 be prohibited or required to be done.

(ii) The notice to the owner shall contain particulars sufficient to identify the land in respect of which an order is proposed to be made and shall refer to the document of title under which the same is held.

Appearance to shew cause.

4. Any owner of land who is required to shew cause why an order under this Enactment should not be made in respect of such land may attend and shew cause either in person or by his agent duly authorized by power of attorney in that behalf or by an advocate and solicitor of the Supreme Court or, with the permission

of the Resident, by any other person ; such agent, advocate, and solicitor or other person as aforesaid is hereinafter referred to as the representative of the owner.

Procedure on appearance.

5. (i) If an owner of land who is required to shew cause as aforesaid attends in person or by representative at the time and place stated in the notice, the Resident shall inform such owner or his representative, as the case may be, of the grounds on which it appears to him that earth, mud, or silt from land of such owner has caused or is likely to cause damage to other land or has interfered or is likely to interfere with the due cultivation of other land and shall, in the presence of such owner or his representative, make any enquiry and take and record any evidence which the Resident thinks necessary as to the facts and circumstances of the case and shall hear and record the statement (if any) of such owner or his representative and take and record the evidence of all persons attending at the instance of such owner or his representative whom such owner or representative desires to examine.

(ii) For the purpose of carrying out the provisions of this section the Resident shall have the same powers of summoning and enforcing the attendance of witnesses and of compelling the production of documents and of adjourning proceedings from time to time as the Court of a Magistrate has in civil suits.

Power to make orders ; nature of orders.

6. (i) If an owner of land who is required to shew cause as aforesaid fails without reasonable excuse (to be allowed by the Resident) to attend in person or by representative at the time and place mentioned in the notice or having so attended fails to shew cause to the satisfaction of the Resident why an order in respect of the land referred to in the notice should not be made, the Resident may in his discretion make an order in writing under his hand

(*a*) prohibiting, either absolutely or to such extent as may be prescribed in the order, interference with or destruction or removal of any trees, plants, undergrowth, weeds, or grass within or from such parts of the said land as are specified in the order ;

(*b*) requiring the making on the said land of drains and watercourses, and the construction thereon of dams and retaining walls, of such character and dimensions and in such positions as are specified in the order ;

(*c*) requiring the doing on or in respect of the said land of any act or thing which appears to the Resident likely to prevent, and prohibiting the doing on or in respect of the said land of any act or thing which appears to the Resident likely to facilitate, the passage of earth, mud, or silt from the said land to other land.

(ii) Any order made under this section may prescribe the time within which any work, act, or thing required by such order to be made or done shall be completed.

Variation and revocation of orders.

7. (i) Any order made under Section 6 may be varied or revoked by the Resident by writing under his hand ; provided that no such order shall be varied so as to prohibit or require anything not

authorized by Section 6 to be prohibited or required, or shall, except with the express consent of the owner of the land in respect whereof the order was made or of some person duly empowered so to consent on behalf of the owner, be varied unless notice shall first have been served upon such owner to shew cause why the order should not be varied.

(ii) Such notice shall refer to the subsisting order and to the date whereon the same was made and shall contain particulars of the manner in which the same is proposed to be varied.

(iii) After service of such notice the procedure prescribed by Sections 4 and 5 shall, subject to necessary modifications, apply; and the provisions of this Enactment applicable to an order made under Section 6 shall apply also to any such order as varied under this section.

Operation of orders.

8. Subject to the judgment of the appellate Court, every order made under Section 6 shall after service thereof upon the owner of the land in respect whereof the same is made be, so long as the same remains unrevoked, binding upon all persons who are from time to time registered in any Registry of Titles or Land Office as owner or owners of such land and upon all persons who are from time to time in lawful occupation thereof.

Appeal.

9. (i) From any order made under Section 6 an appeal shall lie to the Court of a Judicial Commissioner; provided that no such appeal shall be brought after the expiration of ten days from the time when the order appealed against was made. The obligation to comply with an order made under Section 6 shall not be affected by the fact of an appeal having been preferred against the order; but the appellate Court may for sufficient cause suspend the obligation.

(ii) For the purposes of an appeal under this section the provisions of Chapter XL of the Civil Procedure Codes, 1902, relating to appeals from original decrees, shall, subject to the provisions of this section and to necessary modifications, apply, and the Resident by whom the order appealed against was made, or such public officer subordinate to the said Resident as he may appoint in that behalf, shall be the respondent. Costs payable by the respondent in any such appeal shall be defrayed from public funds. The decision of the Court of a Judicial Commissioner shall be final and there shall be no appeal therefrom.

Maintenance of work.

10. Where any drain, water-course, dam, wall, or other work has in pursuance of an order under Section 6 been made on any land, all persons who are from time to time registered in any Registry of Titles or Land Office as owner or owners of such land shall, so long as such order remains unrevoked, at his or their own expense maintain such work in good and efficient order to the satisfaction of the Resident.

Record of orders in Register.

11. Where by virtue of an order made under Section 6 any prohibition or requirement is under this Enactment imposed on an owner of land, the Resident may certify under his hand and official seal the terms of the order and the particulars of the document or

documents of title under which such land is held, and the Registrar of Titles or Collector, as the case may be, having custody of the Register wherein the title to such land is recorded shall on production to him of such certificate enter in the said Register a memorandum of the making of such order and shall file such certificate ; and where any order of the making whereof a memorandum has been entered as aforesaid is varied or revoked or is affected by a judgment of the appellate Court, such variation or revocation or the effect of such judgment may in like manner be certified and a memorandum thereof entered in the Register and the certificate thereof filed.

Penalty

12. (i) If any person who is by an order under or by any provision of this Enactment prohibited from doing or required to do any act or thing makes, without reasonable excuse, default in complying with such prohibition or requirement, he shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand dollars.

(ii) Notwithstanding anything in any other Enactment contained, any penalty authorized by this section may be imposed by the Court of a Magistrate of the First Class.

Power to cause effect to be given to orders ; recovery of cost.

13. (i) If any person who is by an order under or by any provision of this Enactment required to do any act or thing makes default in complying with such requirement, the Resident may cause such act or thing to be done by such persons and in such manner as he may direct and the cost thereof shall be recoverable from the person making default as aforesaid by the Resident, or any person authorized in that behalf by the Resident, by civil suit.

(ii) Nothing in this section contained shall affect any liability of any person to prosecution and punishment under Section 12.

Service of notices and orders.

14. Notices and orders issued and made in any State under this Enactment may be served in manner following, and such service shall be equivalent to personal service upon the person on whom service is to be effected :

(*a*) if the person on whom service is to be effected be within such State, the notice or order may be delivered to him or left with some adult member of his family (other than a servant) residing with him within such State ;

(*b*) if the person on whom service is to be effected have an agent within such State duly authorized by power of attorney to accept service on his behalf, the notice or order may be delivered to such agent ;

(*c*) If service cannot be effected in the manner described in clause (*a*) or clause (*b*) of this section, the notice or order may be sent by registered post addressed to the person on whom service is to be effected at his residence in any part of the Federated Malay States or the Colony ;

(*d*) where service is to be effected on a corporation, the notice or order may be

(1) left at the registered office (if any) of the corporation within such State ;

(2) delivered to any director, secretary, or other principal officer of the corporation within such State or to any person within such State duly authorized by power of attorney to accept service on behalf of the corporation, or to any person having, on behalf of the corporation, powers of control or management over the land to which the notice or order relates ;

(3) sent by registered post addressed to the corporation at its principal office wherever situate ;

(*c*) if service cannot be effected in accordance with the preceding clauses of this section, the notice or order may be put up in a conspicuous position on the land to which it relates.

Private suits not affected.

15. Nothing in this Enactment contained shall debar any owner of land which is affected or likely to be affected by inroad of earth, mud, or silt from other land from instituting any suit or proceedings in respect thereof or shall relieve any person of any liability to which he would have been subject if this Enactment had not been passed ; provided that a person shall not be liable for any act or omission, or the consequences of any act or omission, required by an order under this Enactment to be done or omitted by him.

ENACTMENT NO. 3 OF 1918.

An Enactment to provide for the regulation of Fire Insurance Companies.

ARTHUR YOUNG,
President of the Federal Council.

[26th April, 1918.
3rd May, 1918.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

PRELIMINARY.

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as "The Fire Insurance Companies Enactment, 1918," and shall come into force on the publication thereof in the *Gazette*.

(ii) Upon the coming into force of this Enactment, Section 110 of "The Companies Enactment, 1917," relating to statements in Form C in Schedule B to the said Enactment, shall be repealed so far as it relates to fire insurance companies.

Street scheme.

2. In this Enactment unless there is something repugnant in the context—

"Fire insurance business" means the issue of, or the undertaking of liability under, policies of insurance against loss by or incidental to fire ;

"Chairman" means the person for the time being presiding over the Board of Directors or other governing body of a fire insurance company, and includes any managing partner of a firm ;

"Director" includes any person acting in the position of director, by whatever name called, and includes a partner of a firm ;

"Financial year" means each period of twelve months at the end of which the balance of the accounts of the fire insurance company is struck, or, if no such balance is struck, then the calendar year ;

"Registrar" means the Registrar of Companies ;

"Policy-holder" means the person who for the time being is the legal holder of the policy for securing the contract with the fire insurance company ;

"United Kingdom" means the United Kingdom of Great Britain and Ireland, and the "Assurance Companies Act, 1909," means the Act of the Parliament of the United Kingdom, 9 Edward 7, chapter 49, and includes any amendment of the said Act for the time being in force.

COMPANIES TO WHICH ENACTMENT APPLIES.

Companies to which Enactment applies.

3. (i) Save as hereinafter expressly provided, this Enactment shall apply to all persons or bodies of persons, whether corporate or unincorporate, which persons or bodies of persons are hereinafter referred to as fire insurance companies, whether established before or after the commencement of this Enactment and whether established within or without the Federated Malay States, who carry on fire insurance business within the Federated Malay States.

(ii) No company which does not keep its accounts in the English language shall, without the permission of the Chief Secretary to Government, carry on fire insurance business in the Federated Malay States.

(iii) A company registered under "The Companies Enactment, 1917," or under "The Companies Enactment, 1897," of any of the Federated Malay States, which carries on fire insurance business in any part of the world, shall for the purposes of this section be deemed to be a company carrying on such business within the Federated Malay States.

DEPOSITS.

Deposit.

4. (i) Every fire insurance company shall deposit and keep deposited with the Treasurer, Federated Malay States, or with an agent appointed by him securities to be approved by the Chief Secretary to Government to the value of one hundred thousand dollars Straits Settlements currency, and the Treasurer, Federated Malay States, shall hold all such securities in trust for the policy-holders.

(ii) The interest accruing due on the securities so deposited shall be paid to the company.

(iii) The deposit may be made by the subscribers of the memorandum of association of a company or any of them in the name of a proposed company and upon the incorporation of the company shall be deemed to have been made by, and to be part of the assets of, the company, and the Registrar shall not issue a certificate of incorporation of the company under "The Companies Enactments 1917," until the deposit has been made.

(iv) In the case of a company which is carrying on fire insurance business within the Federated Malay States at the commencement of this Enactment, it shall be sufficient if the deposit is made by the 30th day of June, 1918.

ACCOUNTS AND DOCUMENTS.

Accounts and balance-sheets.

5. (i) Every fire insurance company shall at the expiration of each financial year prepare

(*a*) a revenue account for the year in the form set out in Schedule A ;

(*b*) a profit and loss account in the form set out in Schedule B ;

(*c*) a balance-sheet in the form set out in Schedule C.

(ii) Every such account and balance-sheet shall, unless the Chief Secretary to Government otherwise orders, be audited by an auditor approved by the Chief Secretary to Government, who shall for the purposes of Section 6 be deemed to be the company's auditor.

Deposit of accounts, etc., with Registrar.

6. (i) Every such account and balance-sheet shall be printed, and a copy thereof signed by the company's auditor, by the chairman and two directors of the company and by the principal officer of the company and, if the company has a managing director, by the managing director, shall be filed with the Registrar within six months after the close of the period to which the account or balance-sheet relates.

(ii) There shall be deposited with every revenue account and balance-sheet of a company any report on the affairs of the company submitted to the shareholders or policy-holders of the company in respect of the financial year to which the account and balance-sheet relate.

Right of shareholders, etc., to copies of accounts.

7. A printed copy of the last-deposited accounts and balance-sheet shall, on the application of any shareholder or policy-holder of the company, be forwarded to him by the company by post or otherwise.

Publication of authorized, subscribed, and paid-up capital.

8. Where any notice, advertisement, or other official publication of a fire insurance company contains a statement of the amount of the authorized capital of the company, the publication shall also contain a statement of the amount of capital which has been subscribed and of the amount paid up.

Requirements as to unincorporate companies.

9. (i) Every unincorporate fire insurance company which at the commencement of this Enactment has a place of business in the Federated Malay States or an agent in the Federated Malay States appointed with the object of obtaining fire insurance business, and every such company which after the commencement of this Enactment establishes such a place of business within the Federated Malay States or appoints such an agent in the Federated Malay States, shall, within three months from the commencement of this Enactment or within one month from the establishment of such place of business or the appointment of such agent, as the case may be, file with the Registrar

(*a*) a certified copy of the instrument defining the constitution of the company or of its partnership agreement and, if the instrument or agreement is not written in the English language, a certified translation thereof ;

(*b*) a list of the shareholders or partners or, in the case of a company established in the United Kingdom before the year 1862, of the directors or managers of the company with their addresses and occupations ;

(c) the names and addresses of some one or more persons resident in the Federated Malay States authorized to accept on behalf of the company service of process and any notices required to be served on the company.

(ii) In the event of any alteration being made in any such instrument or partnership agreement or in the list of the shareholders or partners or of the directors or managers, as the case may be, or in the names or addresses of any such persons as aforesaid, the company shall within six weeks thereof file with the Registrar in the prescribed form, if any, particulars of such alteration.

(iii) Any process or notice required to be served on the company shall be sufficiently served if addressed to any person whose name has been so filed as aforesaid and left at or sent by post to the address which has been so filed.

SPECIAL PROVISIONS RELATING TO ACCOUNTS AND DOCUMENTS.

Custody and inspection of documents.

10. Every document required to be filed or deposited under this Enactment with the Registrar shall be kept by the Registrar; and such documents shall be open to inspection, and copies thereof may be procured by any person on payment of the prescribed fees.

Evidence of documents.

11. (i) Every document filed or deposited under this Enactment with the Registrar, and certified by the Registrar to be a document so filed or deposited, shall be deemed to be a document so filed or deposited.

(ii) Every document purporting to be certified by the Registrar to be a copy of a document so filed or deposited shall be deemed to be a copy of that document and shall be received in evidence as if it were the original document, unless some variation between it and the original document be proved.

Alteration of forms.

12. The Chief Secretary to Government may, on the application or with the consent of a fire insurance company, alter the forms contained in the schedules to this Enactment, as respects that company, for the purpose of adapting them to the circumstances of that company.

COMPANIES CARRYING ON BUSINESS IN THE UNITED KINGDOM OR IN THE COLONY.

Application of Enactment to companies which have made deposit in the United Kingdom or in the Colony.

13. (i) A fire insurance company, which obtains from the Registrar a declaration that he is satisfied that it has made a deposit in the United Kingdom in accordance with the Assurance Companies Act, 1909, or that it is exempted by Section 31 of that Act from making such deposit, or that it has made a deposit in the Colony of the Straits Settlements in accordance with the Fire Insurance Companies Ordinance, 1917, of the said Colony, shall, so long as it maintains such deposit or as such exemption continues, be exempted

from the provisions of Sections 4, 5, and 6 but shall within the time prescribed in Section 6 file with the Registrar a copy of every account, balance-sheet, or other document which the company is required by the Assurance Companies Act, 1909, to deposit at the Board of Trade or by Section 6 of the said Fire Insurance Companies Ordinance, 1917, to deposit with the Registrar of Companies in the Colony, as the case may be.

(ii) Every such copy shall be signed by the Chairman and two directors of the company and by the principal officer of the company and, if the company has a managing director, by the managing director.

PENALTIES, RULES, ETC.

Penalties.

14. (i) Any fire insurance company which makes default in complying with any of the requirements of this Enactment, and every director, manager, secretary, or other officer or agent of the company who is knowingly a party to the default, shall be liable to a fine not exceeding one thousand dollars, or, in the case of a continuing default, to a fine not exceeding five hundred dollars for every day during which the default continues ; and, if default continues for a period of three months after notice of default by the Chief Secretary to Government (which notice shall be published in one or more newspapers as the Chief Secretary to Government may, upon the application of one or more policy-holders or shareholders, direct), the default shall be a ground on which the Court may order the winding-up of the company in accordance with "The Companies Enactment, 1917."

(ii) If any account, balance-sheet, abstract, statement, or other document required by this Enactment is false in any particular to the knowledge of any person who signs it, such person shall be guilty of an offence and liable on conviction to imprisonment for a term which may extend to two years, or to fine, or to both.

Service of notices.

15. (i) Any notice or other document which is by this Enactment required to be sent to any policy-holder may be addressed and sent to the person to whom notices respecting such policy are usually sent, and any notice so addressed and sent shall be deemed and taken to be notice to the holder of such policy.

(ii) Where any person claiming to be interested in a policy has given to the company notice in writing of his interest, any notice which is by this Enactment required to be sent to policy-holders shall also be sent to such person at the address specified by him in his notice.

Fees.

16. In respect of the documents filed under Section 6 or Section 13, and in respect of each of the documents filed under Section 9, a fee of three dollars shall be paid to the Registrar.

Rules.

17. The Chief Secretary to Government may from time to time by rule published in the *Gazette* prescribe a form for the filing of particulars of alterations under Section 9 (ii) and fees for inspection and copies of documents under Section 10.

SCHEDULE A.

Revenue account of the .....for the year ending....., 19.., in respect of fire insurance business.

	$ c.	$ c.		$ c.
Amount of fire insurance fund at the beginning of the year :—			Claims under policies paid and outstanding ..	
			Commission	
			Expenses of management	
Reserve for unexpired risks			Contributions to fire brigades	
			Other payments (accounts to be specified) ..	
Additional reserve (if any)				
				$ c.
Premiums		..	Amount of fire insurance fund at the end of the year as per Schedule C :—	
	$ c.			
Interest, dividends, and rents			Reserve for unexpired risks being .....per cent. of premium income for the year..... ..	
Less income-tax thereon				
Other receipts (accounts to be specified) ..			Additional reserve (if any).....	

Note 1.—Items in this account to be the net amounts after deduction of the amounts paid in respect of re-insurances of the company's risks.

Note 2.—If any sum has been deducted from the expenses of management account and taken credit for in the balance-sheet as an asset, the sum so deducted to be separately shewn in the above account.

SCHEDULE B.

Profit and loss account of the....., for the year ending....., 19..

	$ c.	$ c.		$ c.
Balance of last year's account			Dividends and bonuses to shareholders	
Interest and dividends not carried to other accounts			Expenses not charged to other accounts	
Less income-tax thereon ..			Loss realized (accounts to be specified)	
Profit realized (accounts to be specified)			Other payments (accounts to be specified) ..	
Other receipts (accounts to be specified)			Balance as per Schedule C.	

SCHEDULE C.

Balance-sheet of the.....on the....., 19..

LIABILITIES.	$ c.	$ c.	ASSETS.	$ c.
Shareholders' capital paid up (if any)			Charges and mortgages on property within the Federated Malay States	
Fire insurance fund			Charges and mortgages on property out of the Federated Malay States	
Other funds (if any) to be specified			Loans on securities (to be specified)	
			Investments—	
			Deposit with the Government, Federated Malay States	
			Deposit with other Governments	
			Other securities (to be specified)	
Fire insurance claims admitted or intimated but not paid			Agents' balances	
			Outstanding premiums [1]	
			,, interest, dividends, and rents [1] ..	
			Interest accrued but not payable [1]	
Other sums owing by the Company [1] (to be stated separately under each head of business).. ..			Bills receivable	
			Cash—	
			On deposit..	
			In hand and on current account	
			Other assets (to be specified)	

[1] These items are or have been included in the corresponding items in Schedule A.

Note 1.—A balance-sheet in the above form must be rendered in respect of each separate fund for which separate investments are made.

Note 2.—The balance-sheet must state how the values of the stock exchange securities are arrived at, and a certificate must be appended signed by the same persons as sign the balance-sheet, to the effect that in their belief the assets set forth in the balance-sheet are in the aggregate fully of the value stated therein, less any investment reserve fund taken into account.

ENACTMENT NO. 7 OF 1918.

An Enactment to control the use of the heraldic emblem of the Red Cross.

ARTHUR YOUNG,
President of the Federal Council.

[26th April, 1918.
3rd May, 1918.]

WHEREAS by the Second Geneva Convention provision was made for controlling the use of the heraldic emblem of the Red Cross and it is expedient to provide for similar control of the use thereof in the Federated Malay States :

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as " The Red Cross (Control of Use) Enactment, 1918," and shall come into force on the publication thereof in the *Gazette*.

Prohibition of use of emblem without authority.

2. (i) As from the commencement of this Enactment it shall not be lawful for any person to use for the purpose of his trade or business, or for any other purpose whatsoever, in the Federated Malay States without the authority of the High Commissioner, the heraldic emblem of the red cross on a white ground formed by reversing the Federal colours of Switzerland, or the words " Red Cross " or " Geneva Cross," and if any person acts in contravention of this provision he shall be guilty of an offence against this Enactment and shall be liable on conviction to a fine not exceeding one hundred dollars and to forfeit any goods upon or in connection with which the emblem or words were used.

(ii) Where a company or society is guilty of any such contravention, without prejudice to the liability of the company or society, every director, manager, secretary, and other officer of the company or society, who is knowingly a party to the contravention, shall be guilty of an offence against this Enactment and liable to the like penalty.

(iii) Proceedings under this Enactment shall not be instituted without the consent of the Legal Adviser to the Government.

ENACTMENT NO. 8 OF 1918.

An Enactment to provide for certain matters relating to Defamation.

ARTHUR YOUNG,
President of the Federal Council.

[26th April, 1918.
3rd May, 1918.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Libel Enactment, 1918," and shall come into force on the publication thereof in the *Gazette*.

Interpretation.

2. In this Enactment—

"Public meeting" means any meeting *bonâ fide* and lawfully held for a lawful purpose and for the furtherance or discussion of any matter of public concern, whether the admission thereto be general or restricted, and includes any general meeting, wherever held, of the shareholders or debenture-holders of any joint stock company, wherever registered, whose business is in any way directly concerned with the Federated Malay States or the Colony.

"Newspaper" means any paper containing public news, intelligence, or occurrences, or any remarks or observations thereon printed for sale and published in any of the Federated Malay States or in the Colony periodically, or in parts or numbers at intervals not exceeding twenty-six days between the publication of any two such papers, parts, or numbers, and includes any paper printed in order to be dispersed and made public weekly or oftener, or at intervals not exceeding twenty-six days, containing only or principally advertisements.

Reports of judicial proceedings.

3. (i) A fair and accurate report of proceedings publicly heard before any Court exercising judicial authority and of the judgment, sentence, or finding of any such Court shall be privileged, and any fair and *bonâ fide* comment thereon shall be protected, although such judgment, sentence, or finding be subsequently reversed, quashed, or varied, unless at the time of the publication of such report or comment the defendant who claims the protection afforded by this section knew or ought to have known of such reversal, quashing, or variation.

(ii) Nothing in this section shall authorize the publication of any blasphemous, seditious, or indecent matter.

Reports of Council meetings.

4. A fair and accurate report published in any newspaper of the proceedings (except where neither the public nor any newspaper reporter is admitted) of any meeting of the Federal Council or of

any State Council shall be privileged, unless it shall be proved that such report or publication was published or made maliciously.

Reports of public meetings, etc.

5. (i) A fair and accurate report published in any newspaper of the proceedings of a public meeting or (except where neither the public nor any newspaper reporter is admitted) of any meeting of a Sanitary Board or local authority formed or constituted under the provisions of any Enactment, or of any Committee appointed by any of the above-mentioned bodies, or of any meeting of any Commissioners appointed under any Enactment or other lawful warrant or authority, shall be privileged, unless it shall be proved that such report or publication was published or made maliciously ; provided that the publication of any matter not of public concern and the publication of which is not for the public benefit shall not be protected.

(ii) Nothing in this section shall authorize the publication of any blasphemous, seditious, or indecent matter.

(iii) The protection intended to be afforded by this section shall not be available as a defence in any proceedings if it shall be proved that the defendant has been requested to insert in the newspaper in which the report or other publication complained of appeared a reasonable letter or statement by way of contradiction or explanation of such report or other publication and has refused or neglected to insert the same.

Extract from public registers, notice and reports.

6. (i) The publication of the whole of or any fair extract from the reports, papers, notes, or proceedings of the Federal Council or of any State Council, or of or from any public register or record or any book kept by a public servant in the discharge of his legal or official duty or any notice or report issued by any Government office or department, officer of State, Commissioner of Police, or Chief Police Officer for the information of the public, or of the whole of or any fair extract from any report issued by receivers or Official Assignees in bankruptcy or other officials in accordance with Enactments for the time being regulating bankruptcy proceedings or the winding-up of public companies, shall be privileged unless it shall be proved that such publication was made maliciously.

(ii) The provisions of sub-sections (ii) and (iii) of Section 5 shall apply to, and be read as part of, this section.

Consolidation of actions.

7. (i) Upon an application by two or more defendants in actions in respect to the same or substantially the same libel brought by one and the same person the Court or a Judicial Commissioner may make an order for the consolidation of such actions so that they shall be tried together.

(ii) After any such order has been made and before the trial of the said actions the defendants in any new actions instituted in respect of the same or substantially the same libel shall also be entitled to be joined in a common action upon a joint application by such new defendants and the defendants in the action already consolidated.

(iii) The Court or a Judicial Commissioner may, in the case of the same or substantially the same libel published simultaneously

in a number of newspapers or copied shortly after publication, give notice to the plaintiff in any action or actions arising out of such libels that a period stated in such notice will be allowed for the discovery of any further publications of such libel in order that the whole of the actions arising out of such libel may be tried together, and after such period has expired no further actions shall be instituted in respect of the publication of such libel except for the recovery of special damages.

(iv) In a consolidated action under this section the whole amount of the damages (if any) shall be assessed in one sum, but a separate judgment shall be given in respect of each defendant in the same way as if the actions consolidated had been tried separately.

(v) The amount of damages so assessed as aforesaid shall be apportioned amongst those of the defendants against whom judgment shall have been given, and if costs are given to the plaintiff the Court may make such order as it shall deem just apportioning the costs amongst such last-mentioned defendants.

Separate assessment of damages in certain cases.

8. Whenever in an action of libel the plaintiff sues more than one defendant, whether jointly, severally, or in the alternative, and evidence is given of malice in one defendant or of any other matter of aggravation which would not be admissible in evidence against any other defendant if he were sued alone, such other defendant may apply to the Court to have the damages against himself and his co-defendants separately assessed, and if such application be made the Court shall assess the damages separately against each defendant and no defendant shall be liable nor shall execution issue against him for any further or other damages than shall be so assessed against him.

Apology in mitigation of damages.

9. (i) In any action for defamation the defendant may (after notice in writing of his intention to do so duly given to the plaintiff at the time of filng his written statement of his case) give in evidence, in mitigation of damages, that he made or offered an apology to the plaintiff for such defamation before the commencement of such action or as soon afterwards as he had an opportunity of doing so in case the action shall have been commenced before there was an opportunity of making or offering such apology.

(ii) In an action for libel contained in any newspaper any defendant who has paid money into Court under Section 348 of "The Civil Procedure Code, 1902," may state in mitigation of damages, in his written statement of his case, that such libel was inserted in such newspaper without actual malice and without gross negligence and that, before the commencement of the action or at the earliest opportunity afterwards, he inserted or offered to insert in such newspaper a full apology for the said libel, or, if the newspaper in which the said libel appeared should be ordinarily published at intervals exceeding one week, had offered to publish the said apology in any newspaper to be selected by the plaintiff in such action.

Damages recovered in other actions.

10. At the trial of an action for a libel the defendant may give in evidence, in mitigation of damages, that the plaintiff has already recovered or has brought actions for damages or has received or

agreed to receive compensation in respect of a libel or libels to the same purport or effect as the libel for which such action has been brought.

Slander of women.

11. Words spoken and published after the commencement of this Enactment which impute unchastity or adultery to any woman or girl shall not require special damage to render them actionable.

Application to past matters.

12. Sections 2 to 10 inclusive shall apply to all matters arising before or after the commencement of this Enactment except where an action shall be pending with reference thereto at the date on which this Enactment comes into force.

Severance of defences.

13. Whenever in any action of libel the plaintiff sues more than one defendant, whether jointly, severally, or in the alternative, each defendant may file a separate statement of his case and appear at the trial by separate counsel or, if he thinks fit, apologize or pay money into Court or make other amends, whatever may be the defences set up by his co-defendants, and the plaintiff may accept such apology, money, or other amends and settle or compromise the suit and discontinue the action as between himself and one or more defendants without reference to the other defendants; provided always that the rights and interests of the other defendant or defendants shall not in any way be prejudiced thereby.

Absolute privilege of members of Council.

14. (i) Members of the Federal Council and of every State Council shall have freedom of speech at all meetings of such Council or of any Committee of such Council.

(ii) No member of such Council shall be liable to any civil action or prosecution, arrest, imprisonment, or damages by reason of any matter or thing brought by him by petition, resolution, motion, or otherwise or said by him before such Council or Committee.

ENACTMENT NO. 14 OF 1918.

An Enactment to consolidate and amend the law relating to the constitution and powers of the Civil and Criminal Courts.

ARTHUR YOUNG,
President of the Federal Council.

[26th September, 1918.
1st January, 1919.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as " The Courts Enactment, 1918," and shall come into force upon the 1st day of January, 1919.

(ii) Upon the coming into force of this Enactment the Enactments specified in the schedule shall be repealed ; provided that all appointments and rules made under any Enactment hereby repealed which were in force immediately prior to the commencement of this Enactment shall, so far as they are not inconsistent with the provisions of this Enactment, be deemed to have been made under this Enactment.

(iii) Nothing in this Enactment contained shall affect any special jurisdiction or power conferred by any Enactment not hereby repealed.

Interpretation of this Enactment.

2. In this Enactment, unless the context otherwise requires—

The expression " Judicial Commissioner " occurring without the prefix " Chief " includes the Chief Judicial Commissioner as well as any other Judicial Commissioner appointed under this Enactment ;

The expression " Registrar," except where its application is expressly limited by this Enactment, includes an Assistant Registrar and a Deputy Registrar ;

The expression " lower Court " when used in connection with proceedings in the Court of Appeal includes any of the other Courts mentioned in Section 4 (i) and when used in connection with proceedings in a Court of a Judicial Commissioner includes any of the other Courts mentioned in Section 4 (i) except the Court of Appeal.

Interpretation of certain State laws.

3. Where in any law passed before the 1st day of January, 1906, which is for the time being in force in any of the Federated Malay States reference is made to the Judicial Commissioner or to the Judicial Commissioner's Court, or to the Senior Magistrate or to the Senior Magistrate's Court, such reference shall, except where such interpretation would be repugnant to the context or to the provisions of this Enactment, be deemed to apply to any Judicial

Commissioner appointed under this Enactment, or to any Court of a Judicial Commissioner constituted by this Enactment, as the case may be ; and where the reference is to " the Judicial Commissioner or the Senior Magistrate " or to " the Judicial Commissioner's or the Senior Magistrate's Court," or to words of similar import, such reference shall, except as aforesaid, be deemed to apply to a Judicial Commissioner or to a Court of a Judicial Commissioner ; and where the reference is to an appeal from the Senior Magistrate's Court to the Judicial Commissioner's Court, such reference shall, except as aforesaid, be deemed to apply to an appeal from a Court of a Judicial Commissioner to the Court of Appeal.

Courts constituted.

4. (i) The Courts for the administration of civil and criminal law in the Federated Malay States shall be as follows :

(*a*) The Supreme Court, comprising the Court of Appeal and Courts of a Judicial Commissioner ;

(*b*) Courts of a Magistrate of the First Class ;

(*c*) Courts of a Magistrate of the Second Class ;

(*d*) Courts of a Kathi and Courts of an Assistant Kathi ;

(*e*) Courts of a Penghulu.

(ii) The Court of Appeal and Courts of a Judicial Commissioner shall be Courts of Record and shall possess the same power and authority to punish for contempt of Court as are possessed by the Court of Appeal and the High Court of Justice in England.

Pending proceedings.

5. The Courts constituted by this Enactment shall in their respective capacities have jurisdiction in all proceedings pending at the coming into force of this Enactment, and such proceedings and all previous proceedings in the Courts constituted by any Enactment hereby repealed shall be dealt with where necessary, and as far as may be practicable, as if the same had been had in the Courts constituted by this Enactment.

Appointment of Judicial Commissioners.

6. (i) The Chief Secretary to Government may, with the approval of the High Commissioner, from time to time appoint a fit and proper person to be Chief Judicial Commissioner and such number of other fit and proper persons as may from time to time be found convenient to be Judicial Commissioners. Such last-mentioned Judicial Commissioners shall take rank according to the priority of their respective appointments.

(ii) The Chief Secretary to Government may, with the approval of the High Commissioner, appoint any fit and proper person to act temporarily as Chief Judicial Commissioner or as a Judicial Commissioner and may, with such approval as aforesaid, at any time terminate any such appointment.

(iii) No person shall be appointed to be, or to act as, Chief Judicial Commissioner or a Judicial Commissioner who has not for a period of at least five years been a barrister of England or Ireland, a member of the Faculty of Advocates in Scotland, or an advocate and solicitor of the Supreme Court of the Federated Malay States or of any of them or of the Colony of the Straits Settlements.

(iv) The Puisne Judges of the Supreme Court of the Colony shall be supernumerary Judicial Commissioners, if provision is made by the law of the Colony that such Judges may be declared by the law of the Federated Malay States to be supernumerary Judicial Commissioners of those States.

(v) The Puisne Judges of the Supreme Court of the Colony shall, when performing the duties of Judicial Commissioners, take rank with the other Judicial Commissioners according to the priority of their respective appointments, whether as Judicial Commissioners or as Puisne Judges, whichever dates shall be the earlier.

(vi) The arrangements for the duties and places of residence of the Judicial Commissioners shall be made by the Chief Judicial Commissioner with the concurrence of the Chief Secretary to Government; provided that the Chief Judicial Commissioner shall ordinarily reside at Kuala Lumpur and that the arrangements for the attendance of any Judges from the Colony shall be made by the Governor and the High Commissioner.

(vii) The Chief Secretary to Government may at any time withdraw his concurrence from any arrangement made under this section and may require the Judicial Commissioners to make such other arrangements as the public interests appear to him to demand.

(viii) The Judicial Commissioners of the Federated Malay States may be declared by the law of the Colony to be supernumerary Judges of the Supreme Court of the Colony, and in the event of such declaration being made such Judicial Commissioners shall be deemed to be supernumerary Judges of the Supreme Court of the Colony.

Appointment of Registrars.

7. (i) There shall be attached and belonging to the Supreme Court one Registrar of the said Court, who shall be ordinarily resident at Kuala Lumpur, and such Assistant Registrars and Deputy Registrars as to the Chief Secretary to Government, with the concurrence of the Chief Judicial Commissioner, may seem necessary.

(ii) The Registrar, Assistant Registrars, and Deputy Registrars

(*a*) shall perform such duties as they may be required by law to do and such duties as they may be required by the Court to do and as are discharged by Masters of the Supreme Court, Clerks of the Criminal Courts, Registrars, and the like officers in the Supreme Court of Judicature in England;

(*b*) shall hear applications for and grant probate and letters of administration in all cases where the value of the estate in respect of which the grant is applied for does not exceed five hundred dollars and also in cases where such value exceeds five hundred dollars if the right to such grant is not contested and the value of the estate in respect of which the grant is applied for does not exceed one thousand dollars;

(*c*) may make all such orders as may be necessary in such matters as may, from time to time, be authorized by rules made under Section 77. Any order so made may be altered, varied, or discharged by the Registrar by whom the same was made, as occasion may require.

(iii) Any person aggrieved by any order or act made or done under paragraph (*b*) of sub-section (ii) in the matter of a contested application for probate or letters of administration or made or done under paragraph (*c*) of the said sub-section may appeal to a Judicial Commissioner, provided that such appeal is brought within seven days from the date of the order or act appealed against or within such further time as may be allowed by a Judicial Commissioner or the Registrar.

Appointment of Magistrates.

8. (i) In every State all Magistrates shall be appointed by the Resident of such State by notification in the *Gazette* within and for such State or the areas mentioned in such notification ; and any Magistrate may be suspended from office by the Resident.

(ii) In appointing Magistrates under this section the Resident of a State may appoint a person specially by name, or may appoint the holder of a particular office, or may appoint a class of officers generally, to be a Magistrate or Magistrates of the First Class or of the Second Class. Every such appointment shall take effect from the date on which it is communicated to the person or persons appointed.

(iii) Whenever any person holding an office in the service of the Federated Malay States or of a State who has been appointed to be a Magistrate of the First Class or of the Second Class under this Enactment within and for a State or within and for any local area is transferred to an equal or higher office of the same nature within another State or within a local area, he shall, unless the Resident of the State to which, or of the State wherein is situate the local area to which, he is transferred otherwise directs, become, without further appointment, a Magistrate of the same class within and for the State or local area, as the case may be, to which he is so transferred.

(iv) The Resident of a State may cancel any appointment made by him under this section.

Appointment of Kathis, Assistant Kathis, and Penghulus.

9. All Kathis, Assistant Kathis, and Penghulus shall be appointed in Perak, Selangor, and Pahang by the Sultan in Council and in Negri Sembilan by the Yang di per Tuan and Chiefs in Council within and for the areas mentioned in their *kuasas* and may be suspended or removed from office by the same authority. Every such *kuasa* shall in Perak, Selangor, and Pahang be under the hand and seal of the Sultan and in Negri Sembilan be under the hand and seal of the Yang di per Tuan and also of the Chief of the territory within which the *kuasa* is to have effect and shall be countersigned by the Resident of the State.

COURT OF APPEAL.

Constitution and sittings of Court of Appeal.

10. (i) The Court of Appeal shall consist of and be held by and before any two or more Judicial Commissioners appointed under this Enactment.

(ii) The Court shall sit for the hearing of appeals in civil matters or for the hearing of appeals in criminal matters or for the hearing of appeals in both civil and criminal matters, as may by the notification hereinafter mentioned be prescribed, on such dates and at such places

as the Chief Judicial Commissioner may, with the concurrence of the Chief Secretary to Government, from time to time by notification in the *Gazette* appoint; provided that the Chief Judicial Commissioner may, when he shall deem it expedient, direct that any appeal be heard at any time and in any place in the Federated Malay States.

(iii) The Chief Judicial Commissioner may, with the concurrence of the Chief Secretary to Government, dispense with any sitting of the Court which shall have been appointed under sub-section (ii).

Ranking of Judges *inter se.*

11. The Chief Judicial Commissioner shall be the President of the Court, and the other Judicial Commissioners shall take rank according to the provisions of Section 6.

Summonses, etc., to be signed and sealed.

12. All summonses, rules, orders, and mandatory processes whatsoever made or issued by the Court shall be signed by the Registrar and sealed with the seal of the Court.

Appeals, how decided.

13. Appeals shall be decided in accordance with the opinion of the majority of the Judges composing the Court, but if there is no such majority the decision appealed against shall stand.

Applications.

14. Whenever under this Enactment an application may be made either to a Court of a Judicial Commissioner or to the Court of Appeal, it shall be made in the first instance to a Court of a Judicial Commissioner.

Incidental directions and interim orders.

15. (i) In any civil or criminal proceeding pending before the Court of Appeal any direction incidental thereto not involving the decision of the appeal and any interim order to prevent prejudice to the claims of the parties pending the appeal may, if the Court of Appeal is not sitting, be made by a Judicial Commissioner.

(ii) Every application under this section shall be entitled "In the Court of Appeal."

(iii) Every order so made may be discharged or varied by the Court of Appeal.

APPEALS IN CIVIL MATTERS TO THE COURT OF APPEAL.

Jurisdiction to hear and determine civil appeals.

16. (i) The Court of Appeal shall have jurisdiction to hear and determine appeals from any judgment or order of a Court of a Judicial Commissioner in any civil matter, whether made in the exercise of its original or of its appellate jurisdiction, subject nevertheless to the provisions of this Enactment and of any rules for regulating the terms and conditions upon which such appeals shall be allowed which may be in force thereunder.

(ii) In any case not provided for by this Enactment or by rules in force thereunder the practice and procedure for the time being of the Court of Appeal in England shall be followed as nearly as may be.

Non-appealable matters.

17. No appeal shall be brought to the Court of Appeal in any of the following cases:

(*a*) where the amount or value of the subject-matter of the suit is less than five hundred dollars, except with the leave of the Court of Appeal on the ground of errors in law or equity or of wrongful admission or rejection of evidence;

(*b*) where the judgment or order is made by consent of the parties ;

(*c*) where the judgment or order relates to costs only ;

(*d*) where, by any Enactment for the time being in force, the judgment or order of the Lower Court is expressly declared to be final.

Limit of time for appealing.

18. (i) No appeal to the Court shall, except by special leave of the Court or of a Judicial Commissioner, be brought after the expiration of one month.

(ii) The said period shall be calculated in the case of an appeal from an order in Chambers from the time when such order was pronounced or when the appellant first had notice thereof and in all other cases from the time at which the judgment or order was signed, entered, or otherwise perfected or in the case of a refusal of an application from the date of such refusal.

Notice of appeal.

19. (i) All appeals to the Court shall be by way of re-hearing and shall be brought by notice of appeal.

(ii) The appellant may appeal from the whole or any part of any judgment or order, and the notice of appeal shall state whether the whole or part only of such judgment or order is complained of and, in the latter case, shall specify such part.

(iii) A notice of appeal may be amended at any time, as the Court may think fit.

Entry of appeal and security for costs.

20. The appellant shall, within the time limited by Section 18, enter the appeal in a list of appeals to be kept in the Court of Appeal and shall, at the same time, lodge with the Registrar of the Court of Appeal the sum of one hundred dollars as security for the costs of the appeal.

Further security for costs.

21. The Court of Appeal may, in any case where it shall think fit, order further security for costs to be given. Such order may extend to requiring security to be given for the costs of the original suit where the appellant is residing out of the Federated Malay States and is not possessed of any sufficient immovable property within the said States other than the property (if any) to which the appeal relates or where by reason of other special circumstances the Court of Appeal is of opinion that security for payment of past costs should be given.

Memorandum of appeal.

22. (i) The appellant shall file in the Court in the prescribed manner and within the prescribed time a memorandum of appeal in the prescribed form.

(ii) A memorandum of appeal may be amended at any time, as the Court may think fit.

Service of notice of appeal.

23. The notice of appeal shall be served on all parties directly affected by the appeal and it shall not be necessary to serve parties not so affected, but the Court may direct notice to be served on any person as it may think fit and may, in the meantime, adjourn the hearing of the appeal upon such terms as may be just and may give such judgment and make such order as might have been given or made if the parties served with such notice had been originally parties.

Notice by respondent of intention to contend for variation of decision.

24. (i) It shall not under any circumstances be necessary for a respondent to give notice of appeal or to file a memorandum by way of cross appeal ; but if a respondent intends upon the hearing of the appeal to contend that the decision of the Court below should be varied, he shall within the time specified in sub-section (ii), or such time as may be prescribed by special order, give notice of such intention to any parties who may be affected by such contention. Omission to give such notice shall not diminish the powers of the Court of Appeal but may in the discretion of the Court be ground for an adjournment of the appeal or for a special order as to costs.

(ii) A notice by a respondent under this section may be given at any time after he has been served with the notice of appeal and notwithstanding that the notice of appeal may have been withdrawn but, subject to any special order which may be made, shall not be given less than eight days before the day fixed for the holding of the Court of Appeal.

(iii) If the appellant does not enter his appeal as directed by Section 20, a respondent who has given such notice as aforesaid may enter his appeal in the list of appeals as if he were an original appellant.

Certificate of grounds of judgment.

25. On the application of any party who is dissatisfied with any judgment or order within the time limited by Section 18 for appealing the Judicial Commissioner who has given or made the judgment or order shall certify in writing the grounds of such judgment or order ; but delay in granting such certificate shall not prevent the appellant from proceeding with his appeal.

Appeal not to operate as stay of execution.

26. An appeal shall not operate as a stay of execution or of proceedings under the decision appealed from unless the Court below or the Court of Appeal shall so order.

Power to amend, admit further evidence, and draw inferences of fact.

27. (i) The Court shall have all the powers and duties, as to amendment and otherwise, of a Court of a Judicial Commissioner in its original jurisdiction together with full discretionary power to receive further evidence upon questions of fact, such evidence to be either by oral examination in Court, by affidavit, or by deposition taken before an examiner or commissioner. Such further evidence may be given without special leave on interlocutory applications or in any case as to matters which have occurred after the date of the decision from which the appeal is brought. Upon appeals from a judgment after trial or hearing of any cause or matter upon the merits such further evidence (save as to matters subsequent as aforesaid) shall be admitted on special grounds only and not without special leave of the Court of Appeal.

(ii) The Court shall have power to draw inferences of fact and to give any judgment and make any order which ought to have been given or made and to make such further or other order as the case may require.

(iii) The powers aforesaid may be exercised notwithstanding that the notice of appeal may be that part only of the decision may be reversed or varied, and such powers may also be exercised in favour of all or any of the respondents or parties although such respondents or parties may not have appealed from or complained of the decision.

(iv) The Court shall have power to make such order as to the whole or any part of the costs of the appeal as may seem just.

Power to order new trial.

28. If upon the hearing of an appeal it appears to the Court that a new trial ought to be had, the Court may, if it thinks fit, order that the judgment be set aside and that a new trial be had.

Production of evidence taken in lower Court.

29. Where any question of fact is involved in an appeal, the evidence taken in the lower Court bearing on such question shall, subject to any special order, be brought before the Court as follows :

(*a*) as to any evidence taken by affidavit, by the production of the affidavits ;

(*b*) as to any evidence taken orally, by the production of a copy of the notes taken in the lower Court or such other materials as the Court deems expedient.

Interest.

30. On an appeal, interest, for such time as execution has been delayed by the appeal, shall be allowed unless the Court or a Judicial Commissioner otherwise directs.

Errors not affecting merits or jurisdiction.

31. No decree shall be reversed or substantially varied, nor shall any case be remanded, in appeal on account of any misjoinder of parties or causes of action or any error, defect, or irregularity in any proceedings in the suit not affecting the merits of the case or the jurisdiction of the Court.

Pauper appeals.

32. The provisions of " The Civil Procedure Code, 1918," relating to appeals by paupers and the provisions of " The Advocates and Solicitors Enactment, 1914," relating to the assignment of advocates and solicitors in suits by paupers shall apply, as nearly as may be, to appeals to the Court of Appeal by paupers.

Appeal to His Britannic Majesty in Council.

33. From any judgment or order of the Court of Appeal in any civil matter an appeal may be made to His Britannic Majesty in Council subject to such rules and regulations as may from time to time be prescribed by order of His said Majesty in Council.

APPEALS IN CRIMINAL MATTERS TO THE COURT OF APPEAL.

Jurisdiction to hear and determine criminal appeals.

34. (i) The Court shall have jurisdiction to hear and determine appeals by any person convicted by a Court of a Judicial Commissioner in the exercise of its original criminal jurisdiction where the person convicted has been sentenced

(*a*) to death, or

(*b*) to imprisonment of either description for not less than six months, or

(*c*) to a fine of not less than one hundred dollars,

subject nevertheless to the provisions of this Enactment and of any rules for regulating the terms and conditions upon which such appeals shall be allowed which may be made thereunder, and to hear and determine any appeal which may be referred to it by a Judicial Commissioner as provided by Section 55.

(ii) Where an accused person has pleaded guilty and been convicted on such plea, there shall be no appeal except as to the extent or legality of the sentence.

(iii) Where an accused person has been acquitted, there shall be no appeal except with the sanction of the Public Prosecutor.

(iv) Subject to the provisions of sub-section (ii) of Section 40, an appeal may lie on a matter of fact as well as on a matter of law.

Notice of appeal; limit of time for lodging notice.

35. (i) Every appeal shall be by notice in writing, which shall, within fourteen days after the date when the decision appealed against was given, be lodged with the Registrar of the Court of a Judicial Commissioner by which such decision was given.

(ii) If the appellant is in prison, he may give notice of appeal within the said fourteen days either orally or in writing to the officer in charge of the prison, and such officer shall forthwith forward such notice or the purport thereof to the Registrar of the said Court.

(iii) Every notice of appeal shall state shortly the substance of the judgment appealed against and the grounds of appeal and shall be signed by the appellant, except where such notice of appeal is given orally as aforesaid.

Registrar to transmit copies of record.

36. As soon as possible after notice of appeal has been lodged or received, as the case may be, the Registrar of the said Court shall transmit to the Court of Appeal a signed copy of the record of the proceedings in the case for each of the Judges composing the Court of Appeal.

Court of Appeal may permit appeal on terms, although law not strictly complied with.

37. The Court of Appeal may in its discretion, on the application of any person desirous of appealing who may be debarred from so doing by reason of his not having observed some formality or some requirement of this Enactment, permit an appeal upon such terms and with such directions as it may consider desirable in order that substantial justice may be done in the matter.

On appeal against acquittal, accused may be arrested.

38. Where an appeal is presented against an acquittal, the Court of Appeal may issue a warrant directing that the accused be arrested and brought before it and may commit him to prison pending the disposal of the appeal or admit him to bail.

Appeal not to operate as stay of execution.

39. (i) Except in the case of whipping (which shall be stayed pending appeal) no appeal shall operate as a stay of execution, but the Court below or the Court of Appeal may stay execution on any judgment, order, conviction, or sentence pending appeal on such terms as to security for the payment of any money or the performance or non-performance of any act or the suffering of any punishment ordered by or in such judgment, order, conviction, or sentence as to the Court may seem reasonable.

(ii) If the appellant is ultimately sentenced to imprisonment, the time during which the execution of the sentence was stayed shall be excluded in computing the term of his sentence.

Summary rejection of appeal.

40. (i) On receiving the signed copy of the record of the proceedings in the case the Court of Appeal shall peruse the same, and if it considers that there is no sufficient ground for interfering it may reject the appeal summarily; provided that no appeal shall be

rejected summarily, except in the case mentioned in sub-section (ii), unless the appellant or his advocate and solicitor has had a reasonable opportunity of being heard in support of the same.

(ii) Where an appeal is brought on the ground that the conviction is against the weight of the evidence or that the sentence is excessive and it appears to all the Judges that the evidence is sufficient to support the conviction and that there is no material in the circumstances of the case which could raise a reasonable doubt whether the conviction was right or lead the Court of Appeal to consider that the sentence ought to be reduced, the appeal may, without being set down for hearing, be summarily rejected by an order under the hand of the Chief Judicial Commissioner certifying that the Judges having perused the record are satisfied that the appeal has been lodged without any sufficient ground of complaint.

Notice and time of hearing.

41. (i) If the Court of Appeal does not reject the appeal summarily, it shall cause notice to be given to the appellant or his advocate and solicitor and to the Public Prosecutor or a Deputy Public Prosecutor of the time and place at which such appeal will be heard, and in cases of appeals under Section 34 (iii) the Court of Appeal shall cause a like notice to be given to the accused.

(ii) Subject to the provisions of this Enactment, the appeal shall come on for hearing at the next sitting of the Court of Appeal for the hearing of appeals in criminal matters that shall be held after the receipt of the copy of the record referred to in Section 40 ; provided that the Court may, on good cause being shewn to its satisfaction, postpone the hearing of such appeal to the next or any subsequent sitting of the Court.

(iii) The Court whose judgment or order is appealed against shall, if so required by the Public Prosecutor or a Deputy Public Prosecutor, furnish him with a copy of the record of the proceedings in the case.

Order on appeal.

42. After perusing the record of proceedings and hearing the appellant or his advocate and solicitor, if he appears, and the Public Prosecutor or Deputy Public Prosecutor, if he appears, and in the case of an appeal under Section 34 (iii) the accused or his advocate and solicitor, if he appears, the Court of Appeal may, if it considers that there is no sufficient ground for interfering, dismiss the appeal or may

(*a*) in an appeal from an order of acquittal, reverse such order and direct that further enquiry be made or that the accused be re-tried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law ;

(*b*) in an appeal from a conviction,

(1) reverse the finding and sentence and acquit or discharge the accused or order him to be re-tried by any lower Court of competent jurisdiction or committed for trial ; or

(2) alter the finding, maintaining the sentence, or

(3) with or without altering the finding, reduce the sentence, or

(4) with or without such reduction and with or without altering the finding, alter the nature of the sentence, but not so as to enhance the same ;

(*c*) in an appeal from any other order, alter or reverse such order.

Additional evidence.

43. (i) In dealing with any appeal in a criminal case the Court of Appeal may, if it thinks additional evidence to be necessary, either take such evidence itself or direct it to be taken by the Court which tried the case.

(ii) When the additional evidence is taken by such last-mentioned Court, it shall certify such evidence, with a statement of its opinion on the case considered with regard to the additional evidence, to the Court of Appeal, and the Court of Appeal shall thereupon proceed to dispose of the appeal.

(iii) Unless the Court of Appeal otherwise directs, the accused or his advocate and solicitor shall be present when the additional evidence is taken; but such evidence shall not be taken in the presence of assessors.

Judgment.

44. On the termination of the hearing of the appeal the Court shall, either at once or on some future day which shall either then be appointed for the purpose or of which notice shall be subsequently given to the parties, deliver judgment in open Court. If any Judicial Commissioner is absent, his judgment shall be read by the Registrar.

Judgment to be certified to lower Court.

45. (i) Whenever a criminal case is decided on appeal, the Court of Appeal shall certify its judgment or order to the Court by which the finding, sentence, or order appealed against was recorded, passed, or made.

(ii) The Court to which the Court of Appeal certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the Court of Appeal ; and, if necessary, the record shall be amended in accordance therewith.

COURT OF A JUDICIAL COMMISSIONER.

Constitution of Court of a Judicial Commissioner.

46. A Court of a Judicial Commissioner shall consist of a Judicial Commissioner.

Summonses, etc., to be signed and sealed.

47. All summonses, rules, orders, and mandatory processes whatsoever made or issued by the said Court shall be signed by the Registrar and sealed with the seal of the Court.

Jurisdiction.

48. The said Court shall have and exercise original and appellate jurisdiction in civil and criminal matters as hereinafter provided.

Original civil jurisdiction.

49. (i) The said Court shall, subject to the provisions of this Enactment and of all other Enactments for the time being in force, have jurisdiction in all suits, matters, and questions of a civil nature, excepting only that nothing herein contained shall be deemed to authorize any Court to dissolve or annul a marriage lawfully solemnized between Christians in the United Kingdom of Great Britain and Ireland or in any British Colony, Possession, or Protectorate.

(ii) In amplification and not in derogation of the generality of the foregoing powers the said Court shall have power to try all suits by and against all persons and corporations in all cases where the persons who are defendants are present in the Federated Malay States or the corporation which is defendant has an establishment or place of business in the said States, and also in the following cases although the defendant is not present or has not its establishment as aforesaid in the said States, that is to say,

(*a*) where the defendant has property in the said States ; or

(*b*) where the whole or any part of the subject-matter of the suit is land or stock or other property situate within the said States, or where any act, instrument, will, or thing affecting such land, stock, or property was done, executed, or made within the said States ; or

(*c*) where the contract which is sought to be enforced, rescinded, annulled, or otherwise affected in the suit, or for the breach whereof damages or other relief are or is demanded in the suit, was made or entered into, or was to be performed or partly performed, within the said States ; or

(*d*) where there has been a breach within the said States of any contract, wherever made ; or

(*e*) where any act or thing for which damages are sought to be recovered or which is sought to be restrained or removed was or is to be done, or is situate, within the said States ; or

(*f*) where the cause of action arose in the said States ; or

(*g*) where the subject of the proceeding otherwise falls, on general principles of international law or comity, to be determined by the law of the said States.

The expression " cause of action " in paragraph (*f*) of this sub-section does not necessarily mean the whole cause of action, but a cause of action shall be deemed to have arisen within the jurisdiction if the contract was made therein, though the breach may have occurred elsewhere, and also if the breach occurred within the jurisdiction, though the contract may have been made elsewhere.

(iii) In further amplification of the generality of the foregoing powers the said Court shall have power

(*a*) to appoint and control guardians and committees of infants and lunatics ;

(*b*) to grant probate and letters of administration to the estates of all persons leaving movable or immovable property in the Federated Malay States or having at time of death a fixed place of abode within the said States, except where such jurisdiction is by Section 7 (ii) given to the Registrar ; and

(*c*) to try all suits relating to wrecks, collisions, and the capture of prizes, to claims for salvage, towage, and breaches of contract, and to all other matters maritime arising within the waters of the Federated Malay States, or in respect of which the defendant or defendants or any of them resides or has a place of business within the said States.

Original criminal jurisdiction.

50. The said Court shall have original criminal jurisdiction for the enquiry into and trial of all offences committed

(*a*) in the Federated States, or

(*b*) on the high seas on board ships registered in the said States, or

(*c*) by subjects of the Rulers of any of the said States on the high seas on board ships, whether such ships be registered in the said States or not.

Assizes.

51. (i) Sittings for the despatch of the criminal business of the said Court, to be called Assizes, shall be held in each State on such dates and at such places as the Chief Judicial Commissioner may, with the concurrence of the Chief Secretary to Government, from time to time appoint, either for the year or for particular occasions, by notification published in the *Gazette* or otherwise a reasonable time before the dates fixed for holding the same.

(ii) The Chief Judicial Commissioner, with the concurrence of the Chief Secretary to Government, may after the publication of any such notification alter the dates fixed for the Assizes, if it shall be expedient so to do, and may appoint other dates and places for holding Assizes whenever occasion shall arise for so doing.

Sittings for civil and other business.

52. Subject to the sittings of the said Court for criminal Assizes and the sittings of the Court of Appeal, sittings for the trial of suits and for the despatch of other civil or criminal business not dealt with at the Assizes shall be held throughout the year and at such places in each State as shall be appointed by the Judicial Commissioner residing therein, or in the case of a State wherein more than one Judicial Commissioner resides then by the Chief Judicial Commissioner if he be one of them or otherwise by the senior of them in priority of appointment, or in the case of a State wherein no Judicial Commissioner resides then by the Chief Judicial Commissioner.

When assessors required.

53. In all cases where the punishment of death is authorized by law the accused shall be tried with the aid of assessors.

When no assessors.

54. Except as may be otherwise expressly provided by any Enactment for the time being in force, all cases, whether civil or criminal, other than those mentioned in Section 53, shall be tried by the Court without assessors.

Appellate jurisdiction.

55. Except as provided in Sections 56, 59 (iv), and 69, the said Court shall in its appellate jurisdiction have power to hear and determine all appeals from the decisions of the lower Courts, both in civil and criminal matters, and may exercise full powers of supervision and revision in respect of all proceedings in such Courts ; provided that a Judicial Commissioner may, in his discretion, direct that any criminal appeal be heard and determined by the Court of Appeal.

No appeal where value not over one hundred dollars.

56. (i) No appeal shall lie from the decision of a Court of a Magistrate to a Court of a Judicial Commissioner in any civil suit the amount or the value of the subject-matter whereof does not exceed one hundred dollars ; but a Court of a Judicial Commissioner, either of its own motion or on the application of any party aggrieved on the ground that such decision is wrong in law, may call for the

record of the suit and may pass such order thereon, either by directing a new trial or otherwise, as may seem to be necessary to secure substantial justice being done.

(ii) If the Court, after examining such record, is of opinion that no ground exists for passing any order thereon, it may cause the parties to be so informed without calling them before it, and in such case neither party to the suit shall be entitled to be heard by the Court.

Reservation of questions of law upon a conviction, for decision by Court of Appeal.

57. (i) When any person has in a trial before a Court of a Judicial Commissioner in the exercise of its original criminal jurisdiction been convicted of an offence, the Judicial Commissioner may, if he thinks fit, reserve for the decision of the Court of Appeal any question of law which has arisen in the course of the trial of such person and the determination of which would affect the event of the trial.

(ii) The person so convicted shall thereupon be remanded to prison or, if the Judicial Commissioner thinks fit, be admitted to bail.

(iii) The Court of Appeal shall review such case, or such part of it as may be necessary, and finally determine the question and remit the matter to the Court of a Judicial Commissioner with the opinion of the Court thereon or may give such judgment and make such order in relation to the matter as to the Court may seem fit.

COURTS OF MAGISTRATES.

Court of a Magistrate of the First Class.

58. A Court of a Magistrate of the First Class shall consist of a Magistrate of the First Class.

Jurisdiction.

59. (i) A Court of a Magistrate of the First Class shall,

(*a*) in its criminal jurisdiction, try all offences for which the maximum term of imprisonment provided by law does not exceed a term of three years' imprisonment of either description or which are punishable with fine only and all such offences as are specified in Sections 325, 335, 380, 381, 407, 408, 409, 420, 429, 451, 452, and 454 of the Penal Code, provided that the Magistrate is of opinion that under the circumstances of the case the power of punishment which he possesses is adequate, and any offence in respect of which jurisdiction is given by law to a Court of a Magistrate of the First Class ; and

(*b*) in its civil jurisdiction, subject to the other provisions of this Enactment, hear and determine all suits within its local jurisdiction when the value in dispute does not exceed five hundred dollars.

(ii) Such Court shall have no jurisdiction to try any offence relating to movable property if the value of such property exceeds five hundred dollars.

(iii) Such Court shall have no jurisdiction in any action brought by a landlord against a tenant, or against any person holding or claiming by, through, or under a tenant, to recover possession of immovable property if the rent payable in respect of such property

exceeds the sum of fifty dollars per month or six hundred dollars per annum.

(iv) Such Court shall have jurisdiction to hear and determine appeals from any decision of the Court of a Penghulu sitting within the local jurisdiction of such Court.

Court of a Magistrate of the Second Class.

60. A Court of a Magistrate of the Second Class shall consist of a Magistrate of the Second Class.

Jurisdiction.

61. (i) A Court of a Magistrate of the Second Class shall,

(*a*) in its criminal jurisdiction, try all offences for which the maximum term of imprisonment provided by law does not exceed a term of twelve months' imprisonment of either description or which are punishable with fine only, and any offence in respect of which jurisdiction is given by law to a Court of a Magistrate of the Second Class ; and

(*b*) in its civil jurisdiction, subject to the other provisions of this Enactment, hear and determine all suits within its local jurisdiction when the value in dispute does not exceed two hundred and fifty dollars.

(ii) Such Court shall have no jurisdiction to try any offence relating to movable property if the value of such property exceeds two hundred and fifty dollars, and shall have no jurisdiction in any suit for the recovery of immovable property or for the determination of any right or interest in immovable property.

Jurisdiction given by other laws not affected.

62. Nothing in this Enactment shall render it unlawful for a Court of a Magistrate of the First Class or of the Second Class, in any case in which jurisdiction is expressly conferred on it by law, to try an offence relating to movable property exceeding in value the limits prescribed by Sections 59 and 61 or to inflict a sentence exceeding the limits prescribed by Section 71.

Preliminary enquiries.

63. Preliminary enquiries into cases triable by a Court of a Judicial Commissioner may be held either by a Court of a Magistrate of the First Class or by a Court of a Magistrate of the Second Class.

Reservation of questions of law upon a conviction, for decision by Court of a Judicial Commissioner.

64. (i) When any person has in a trial before a Court of a Magistrate of the First Class or of the Second Class in its criminal jurisdiction been convicted of an offence, the Magistrate may, if he thinks fit, reserve for the decision of a Court of a Judicial Commissioner any question of law which has arisen in the course of the trial of such person and the determination of which would affect the event of the trial.

(ii) The person so convicted shall thereupon be remanded to prison or, if the Magistrate thinks fit, be admitted to bail.

(iii) The Court of a Judicial Commissioner shall review such case, or such part of it as may be necessary, and finally determine the question and remit the matter to the lower Court with the opinion of the Court thereon or may give such judgment or make such order in relation to the matter as to the Court may seem fit ; provided that a Court of a Judicial Commissioner may refer any case so reserved for its consideration to the Court of Appeal, and the Court of Appeal shall thereupon exercise the powers conferred upon it by Section 57.

COURT OF A KATHI, OF AN ASSISTANT KATHI, AND OF A PENGHULU.

Powers of Kathis and Assistant Kathis.

65. Every Kathi and Assistant Kathi shall have such powers in all matters concerning Muhammadan religion, marriage, and divorce, and in all other matters regulated by Muhammadan law, as may be defined in his *kuasa*.

Powers of Penghulus.

66. Subject to the provisions of the next following section, every Penghulu shall have such powers as may be defined in his *kuasa*.

Jurisdiction of Court of a Penghulu where value not over twenty-five dollars.

67. All suits brought by or against Malays or other Asiatics the value of the subject-matter whereof does not exceed twenty-five dollars may be heard and determined by a Court of a Penghulu.

Enforcement of orders.

68. In the event of any lawful order made by a Court of a Kathi, of an Assistant Kathi, or of a Penghulu not being obeyed, such Court may report the matter, with a copy of all proceedings therein, to a Court of a Magistrate of the First Class within the same district, and thereupon it shall be the duty of such last-mentioned Court either to enforce such order as though it were an order made by itself or to send it to another Court for execution.

Appeals from Court of a Kathi or an Assistant Kathi to Ruler in Council.

69. (i) No appeal shall be brought from any decision of a Court of a Kathi or of an Assistant Kathi to any other Court; but appeals from any such decision given in any State may be heard and determined by the Ruler of such State in Council.

(ii) The Ruler of any State in Council may, by resolution duly recorded, appoint from among the members of the Council a Committee to hear and determine such appeals as aforesaid and may in like manner dissolve, alter, or add to any Committee so appointed. The decisions of any Committee so appointed shall be deemed to be the decisions of the Ruler of the State in Council.

(iii) The Ruler of any State in Council may by notification in the *Gazette* make rules to regulate the procedure in bringing or hearing any such appeal as aforesaid and the fees, if any, to be paid in connection therewith.

(iv) Whenever in any State any such appeal as aforesaid is dismissed, the Ruler of such State in Council or the Committee, as the case may be, dismissing the appeal may, if the bringing of such appeal appears to have been frivolous or vexatious, order the appellant to pay by way of penalty a sum not exceeding two hundred and fifty dollars and may direct the whole or any part thereof to be paid to the respondent. A copy of any order made under this sub-section may be communicated by the Resident of such State to any Court of a Magistrate therein, and thereupon it shall be the duty of such Court to enforce such order as though it were an order made by itself.

MISCELLANEOUS.

Seals.

70. (i) The Court of Appeal and every Court of a Judicial Commissioner shall have and use, as occasion may require, a seal or seals bearing such device and inscription as the Chief Judicial Commissioner may, with the approval of the Chief Secretary to Government, direct.

(ii) Every Court of a Magistrate in any State shall have and use, as occasion may require, a seal or seals bearing such device and inscription as the Resident of such State may, with the approval of the Chief Secretary to Government, direct.

(iii) Until such direction as is hereinbefore referred to is given in respect of any Court, the seal or seals in use by such Court at the commencement of this Enactment may continue to be used.

Sentences.

71. The following are the sentences which may be passed by the Courts specified, respectively :

(*a*) A Court of a Judicial Commissioner—
Any sentence authorized by law ;

(*b*) A Court of a Magistrate of the First Class—
Imprisonment for a term not exceeding twelve months ;
Fine not exceeding five hundred dollars ;
Whipping not exceeding twelve strokes ;

(*c*) A Court of a Magistrate of the Second Class—
Imprisonment for a term not exceeding three months ;
Fine not exceeding two hundred and fifty dollars ;

(*d*) A Court of a Penghulu—
Fine not exceeding ten dollars.

Justices of the Peace.

72. (i) The Resident of a State may from time to time, by notification in the *Gazette*, appoint such persons as he shall deem fit to act as Justices of the Peace within and for such State or any part thereof, and may in like manner revoke any such appointment.

(ii) Justices of the Peace shall have and may exercise within the area for which they are appointed such powers as may be conferred upon them by the Code of Criminal Procedure in force for the time being.

Fees of Legal Adviser.

73. In any civil proceeding before any Court in which the Legal Adviser to the Government of the Federated Malay States appears on behalf of the said Government or of the Chief Secretary to Government or of the Ruler or Government of a State and costs are adjudged for such Government or for the Chief Secretary to Government or for the Ruler, such costs shall, unless the Court otherwise orders, include fees for the services of the Legal Adviser which shall be in accordance with any tables of fees and costs prescribed from time to time to be chargeable by advocates and solicitors of the Supreme Court and may be taxed in accordance with any rules in force under this Enactment for the taxation of the fees and costs of such advocates and solicitors.

Admission of advocates and solicitors.

74. (i) The advocates and solicitors admitted by or under the provisions of any Enactment hereby repealed to practice in the Supreme Court shall be advocates and solicitors of the Supreme Court under this Enactment.

(ii) The Chief Judicial Commissioner may in his discretion, subject to the rules in force from time to time under this Enactment, admit and enrol as an advocate and solicitor of the Supreme Court of the Federated Malay States

(*a*) any barrister-at-law or advocate of Great Britain and Ireland ;

(*b*) any member of the Faculty of Advocates in Scotland ;

(*c*) any solicitor of the Supreme Court of Judicature in England or Ireland, respectively, or writer to the signet or enrolled law agent under the Law Agents (Scotland) Act, 1873, and Acts amending the same ;

(*d*) any advocate and solicitor of the Supreme Court of the Colony of the Straits Settlements ;

(*e*) any person who has served as law clerk or articled clerk in the office of an advocate and solicitor of the Supreme Court of the Federated Malay States for the period of five years ;

(*f*) any public officer who has served for three years in the employment of the Government of the Federated Malay States or of the Colony of the Straits Settlements as a Magistrate or as a District Judge or Assistant District Judge or as a Deputy Public Prosecutor or as a Registrar or Assistant or Deputy Registrar of a Court in the Federated Malay States or of the Supreme Court of the Straits Settlements or as Official Assignee in Bankruptcy and who after such legal examination in such subjects and by such persons as the Chief Judicial Commissioner appoints may be approved of as fit and competent.

Protection of judicial officers.

75. No Judicial Commissioner, Magistrate, Justice of the Peace, or other person acting judicially shall be liable to be sued in any Civil Court for any act done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction, nor shall any order for costs be made against him, provided that he at the time in good faith believed himself to have jurisdiction to do or order the act complained of ; and no officer of any Court or other person bound to execute the lawful warrants or orders of any Judicial Commissioner, Magistrate, Justice of the Peace, or other person acting judicially shall be liable to be sued in any Civil Court for the execution of any warrant or order which he would be bound to execute if within the jurisdiction of the person issuing the same.

Council of Judicial Commissioners.

76. (i) A Council of the Judicial Commissioners, of which due notice shall be given to each of them, shall assemble once at least in every year, on such day or days as shall be fixed by the Chief Judicial Commissioner, for the purpose of considering the operation of this Enactment and of "The Civil Procedure Code, 1918," and of any other Enactment or Rules for the time being in force relating to civil procedure and also the working of the several offices and the arrangements relative to the duties of the officers of the Supreme Court and of enquiring and examining into any defects which may appear to exist in the system of procedure or the administration of the law in the said Court in its original and appellate jurisdiction or in any other Court from which any appeal lies to the said Court ; and they shall report annually to the Chief Secretary to Government what (if any) amendments or alterations it would, in their judgment, be expedient to make in the law relating to the adminis-

tration of justice and shall make any representations with regard to the administration of justice which they shall think fit.

(ii) An extraordinary Council of the Judicial Commissioners may also at any time be convened by the Chief Judicial Commissioner.

(iii) Every report made under this section shall with all convenient despatch be laid before the Federal Council.

Rules.

77. (i) The Judicial Commissioners appointed under this Enactment or any two of them, of whom the Chief Judicial Commissioner shall be one, may from time to time, with the approval of the Chief Secretary to Government, make rules, not inconsistent with this Enactment or with any other law for the time being in force in the Federated Malay States, for all or any of the following purposes, that is to say :

(*a*) for regulating the practice and procedure of all the Courts mentioned in Section 4 (i) ;

(*b*) for regulating the admission of persons to be advocates and solicitors of the Supreme Court ;

(*c*) for fixing tables of fees and costs to be chargeable by advocates and solicitors for their services and providing for the taxation of the same.

(ii) Such rules, when approved by the Chief Secretary to Government, shall be published in the *Gazette* and upon such publication shall have the same force as if they had been enacted as part of this Enactment.

THE SCHEDULE.

ENACTMENTS REPEALED.

I.—STATE ENACTMENTS.

State.	No. and year.	Short title
Perak	13 of 1905	The Courts Enactment, 1905
Selangor	15 of 1905	Do.
Negri Sembilan ..	15 of 1905	Do.
Pahang	13 of 1905	Do.
Negri Sembilan ..	8 of 1907	The Courts Enactment, 1905, Amendment Enactment, 1907
Perak	1 of 1908	The Courts Enactment, 1905, Amendment Enactment, 1908
Selangor	1 of 1908	Do.
Negri Sembilan ..	1 of 1908	Do.
Pahang	3 of 1908	Do.
Perak	21 of 1909	The Courts Enactment, 1905, Amendment Enactment, 1909
Selangor	21 of 1909	Do.
Negri Sembilan ..	22 of 1909	Do.
Pahang	27 of 1909	Do.

II.—FEDERAL ENACTMENTS.

No. and year.	Short title.
2 of 1915 ..	The Courts Enactments, 1905, Amendment Enactment, 1915
15 of 1916 ..	The Courts Enactments, 1905, Amendment Enactment, 1916
14 of 1917 ..	The Courts Enactments, 1905, Amendment Enactment, 1917

ENACTMENT NO. 15 OF 1918.

An Enactment to consolidate and amend the law relating to Civil Procedure.

ARTHUR YOUNG,
President of the Federal Council.

[26th September, 1918.
1st January, 1919.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

PRELIMINARY.

Short title and commencement.

1. (i) This Enactment may be cited as "The Civil Procedure Code, 1918," and is generally referred to hereinafter as "this Code," and shall come into force on the 1st day of January, 1919.

Repeal.

(ii) Upon the coming into force of this Code the Enactments mentioned in the first schedule shall be repealed to the extent specified in the last column of the said schedule ; provided that all declarations by the High Commissioner, scales of allowances for the subsistence of judgment-debtors, appointments of and scales of remuneration for official receivers, exemptions of persons of rank from personal appearance in Court, and rules and forms made or prescribed under any Enactment hereby repealed, which were in force immediately prior to the commencement of this Code shall, so far as may be consistent with the provisions of this Code, be deemed to have been made or prescribed under this Code.

(iii) Upon the coming into force of "The Bankruptcy Enactment, 1912," Chapter XXIII of this Code shall be repealed.

Pending matters.

(iv) Any suit or matter pending at the time of the coming into force of this Code shall, so far as circumstances permit, be continued and proceeded with under the provisions of this Code in the same manner in every respect as if the same had been originally instituted after the commencement of this Code, and in any such suit or matter all such orders may be made as may be necessary for that purpose ; provided that the Court before which any such suit or matter is pending may, on reasonable cause being shewn, direct that such suit or matter shall be continued as if this Code had not been passed up to the execution or to decree or to any stage of the suit or matter which the Court may direct, after which stage the provisions of this Code shall be applicable.

Interpretation.

2. In this Code, unless there be something repugnant in the subject or context—

"Chief Secretary" means the Chief Secretary to Government, Federated Malay States ;

" Civil prison " means any prison or part of a prison in which persons arrested under civil process are confined ;

" Conveyance " includes transfer or assignment ;

" Decree " means the formal expression of an adjudication upon any right claimed, or defence set up, in a Civil Court when such adjudication, so far as regards the Court expressing it, decides the suit or appeal ;

" Decree-holder " means any person in whose favour a decree has been passed or an order capable of execution has been made, and includes any person to whom such decree or order is transferred ;

" Foreign Court " means a Court situate beyond the limits of the Federated Malay States ;

" Foreign judgment " means the judgment of a foreign Court ;

" Judge " means the presiding officer of a Court ;

" Judgment " means the statement given by the Judge of the grounds of a decree or order ;

" Judgment-debtor " means any person against whom a decree has been passed or an order capable of execution has been made ;

" Legal Adviser " means the Legal Adviser to the Government of the Federated Malay States ;

" Lower Civil Courts " means Courts of Magistrates of the First Class and Courts of Magistrates of the Second Class ;

" Mesne profits " of property means those profits which the person in wrongful possession of such property actually received or might with ordinary diligence have received therefrom, together with interest on such profits, but does not include profits due to improvements made by the person in wrongful possession ;

" Order " means the formal expression of any decision of a Civil Court which is not a decree ;

" Originating summons " means every summons other than a summons in a pending suit or matter ;

" Public officer " bears the same meaning as " public servant " in the Penal Code ;

" Public Prosecutor " includes Deputy Public Prosecutor ;

" Registrar " includes Assistant Registrar ;

" Solicitor " means an advocate and solicitor of the Supreme Court of the Federated Malay States.

Provisions not applicable to Supreme Court.

3. The following portions of this Code shall not apply to the Supreme Court in the exercise of its original civil jurisdiction— namely, Sections 48, 111, 183, 184, 185, 186, 187, 188, 189, 190 (so far as it relates to the manner of taking evidence), 198, 199, 200, 202, and so much of Section 452 as relates to the making of a memorandum.

Provisions applicable to Lower Courts.

4. The Chapters and sections specified in the second schedule shall apply (so far as they are applicable) to the Civil Courts below the Court of a Judicial Commissioner.

The other Chapters and sections shall not apply to such Courts.

PART I.

SUITS IN GENERAL.

Chapter I.

RES JUDICATA.

Pending suits.

5. Except where a suit has been stayed under Section 14, no Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit for the same relief between the same parties, or between parties under whom they or any of them claim, pending in the same or any other Court, whether superior or inferior, in the Federated Malay States, having jurisdiction to grant such relief.

Explanation.—The pendency of a suit in a Foreign Court does not preclude the Courts in the Federated Malay States from trying a suit founded on the same cause of action.

Res judicata.

6. No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Explanation I.—The expression "former suit" denotes a suit which has been decided prior to the suit in question, whether or not it was instituted prior thereto.

Explanation II.—The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation III.—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation IV.—Any relief claimed in the plaint which is not expressly granted by the decree shall, for the purposes of this section, be deemed to have been refused.

Explanation V.—A decision is final within the meaning of this section when it is such as the Court making it could not alter (except on review) on the application of either party or reconsider of its own motion. A decision liable to appeal may be final within the meaning of this section until the appeal is made.

Explanation VI.—Where persons litigate *bonâ fide* in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purpose of this section, be deemed to claim under the persons so litigating.

Explanation VII.—Where a foreign judgment is relied on, the production of any document purporting to be a certified copy of a foreign judgment is presumptive evidence that such judgment was pronounced by a Court of competent jurisdiction, unless the contrary appear on the record; but such presumption may be displaced by proving want of jurisdiction.

When foreign judgment not conclusive.

7. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between

parties under whom they or any of them claim litigating under the same title, except

(*a*) where it has not been pronounced by a Court of competent jurisdiction ;

(*b*) where it has not been given on the merits of the case ;

(*c*) where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognize the law of the Federated Malay States or of any of them in cases in which such law is applicable ;

(*d*) where the proceedings in which the judgment was obtained are opposed to natural justice ;

(*e*) where it has been obtained by fraud ;

(*f*) where it sustains a claim founded on a breach of any law in force in the Federated Malay States or in any of them.

Chapter II.

THE PLACE OF SUING.

Court in which suit to be instituted.

8. Every suit shall be instituted in the Court of the lowest grade competent to try it.

"The Courts Enactment, 1918."

9. The provisions of this Chapter are subject to the limitations prescribed by "The Courts Enactment, 1918," as to the jurisdiction of the Courts for the administration of civil justice in the Federated Malay States.

Local limits of Lower Civil Courts.

10. The Resident of a State may, from time to time, by notification in the *Gazette*, define the local limits of the Lower Civil Courts in such State. Unless and until the Resident of a State exercises this power, the local limits of the Lower Civil Courts in such State shall be those existing at the time when this Code comes into force.

Where suits and proceedings in Supreme Court may be instituted.

11. (i) Suits or proceedings in the Supreme Court shall ordinarily be instituted

(*a*) in the State where the defendant resides, or

(*b*) if there are two or more defendants, in the State where one of them resides, or

(*c*) in the State in which the facts constituting the ground of jurisdiction either exist or are alleged to have occurred ;

but if it is made to appear to the Court or a Judge thereof, on the application of either party, to be more fair to the parties, having regard to all the circumstances of the case, to allow a suit or proceeding to be brought in, removed to, or continued in any State, or if all the parties to such suit or proceeding agree, the Court or Judge may allow such suit or proceeding to be brought in, removed to, or continued in such State.

(ii) Nothing in sub-section (i) contained shall affect any power conferred by "The Courts Enactment, 1918," to appoint dates and places for the despatch of the criminal and civil business of the Court.

Where suits in Lower Courts may be instituted.

12. (i) All suits in the Lower Civil Courts shall be instituted in a Court within the local limits of whose jurisdiction

(*a*) the cause of action, wholly or in part, arises ; or

(*b*) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit actually and voluntarily resides, or carries on business or personally works for gain ; or

(*c*) any of the defendants, where there are more than one, at the time of the commencement of the suit actually and voluntarily resides, or carries on business or personally works for gain. Provided that in such case either the leave of the Court is given or the defendants who do not reside or carry on business or personally work for gain, as aforesaid, acquiesce in such institution.

EXPLANATION I.—Where a person has a permanent dwelling at one place and also a temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.

EXPLANATION II.—A corporation shall be deemed to carry on business at its sole or principal office in the Federated Malay States, or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

ILLUSTRATIONS.

(*a*) A is a tradesman in Telok Anson. B carries on business in Ipoh. B, by his agent in Telok Anson, buys goods of A and requests A to deliver them to the Federated Malay States Railways. A delivers the goods accordingly in Telok Anson. A may sue B for the price of the goods either in Telok Anson, where the cause of action has arisen, or in Ipoh, where B carries on business.

(*b*) A resides at Kuala Kubu, B at Kuala Lumpur, and C at Klang. A, B, and C being together at Kajang, B and C make a joint promissory note payable on demand and deliver it to A. A may sue B and C at Kajang, where the cause of action arose. He may also sue them at Kuala Lumpur, where B resides, or at Klang, where C resides ; but in each of these cases, if the non-resident defendant objects, the suit cannot proceed without the leave of the Court.

(ii) A Judicial Commissioner may, on the application of any Carty, or of his own motion, order that any suit pending in a Lower pivil Court be transferred for trial to the Supreme Court or to any other Lower Civil Court competent to try the same in respect of its nature or the amount or value of its subject-matter.

Suits for compensation for wrongs to person or movables.

13. Where a suit is for compensation for wrong done to the person or to movable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.

ILLUSTRATIONS.

(*a*) A, residing in Seremban, beats B in Port Dickson. B may sue A either in Port Dickson or in Seremban.

(*b*) A, residing in Kuala Lipis, publishes in Pekan statements defamatory of B. B may sue A either in Pekan or in Kuala Lipis.

14. (i) Where a suit which may be instituted in more than one Court is instituted in a Court within the local limits of whose jurisdiction the defendant or all the defendants does not or do not actually and voluntarily reside, or carry on business, or personally work for gain, the defendant or any defendant may, after giving notice in writing to the other parties of his intention to apply to the Court to stay proceedings, apply to the Court accordingly. Power to stay proceedings where all defendants do not reside within jurisdiction.

(ii) If the Court, after hearing such of the parties as desire to be heard, is satisfied that justice is more likely to be done by the suit being instituted in some other Court, it may stay proceedings either finally or till further order, and make such order as it thinks fit as to the costs already incurred by the parties or any of them.

(iii) In such case, if the plaintiff so requires, the Court shall return the plaint with an endorsement thereon of the order staying proceedings.

(iv) Every such application shall be made within fourteen days after service of the summons on the applicant, and any defendant not so applying shall be deemed to have acquiesced in the institution of the suit.

15. Where the Court, under Section 14, stays proceedings, and the plaintiff re-institutes his suit in another Court, the plaintiff shall not be chargeable with any Court fee. Remission of Court fee where suit instituted in another Court.

Provided that the proper fee has been paid on the institution of the suit in the former Court, and that the plaint has been returned by such Court.

Chapter III.

PARTIES TO SUITS.

16. All persons may be joined as plaintiffs in whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist, whether jointly, severally, or in the alternative, where, if such persons brought separate suits, any common question of law or fact would arise. Who may be joined as plaintiffs.

17. Where it appears to the Court that any joinder of plaintiffs may embarrass or delay the trial of the suit, the Court may order separate trials or make such other order as may be expedient. Power to order separate trials.

18. All persons may be joined as defendants against whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist, whether jointly, severally, or in the alternative, where, if separate suits were brought against such persons, any common question of law or fact would arise. Who may be joined as defendants.

19. Judgment may be given without any amendment Judgment for or against one or more of joint parties.

(*a*) for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to ;

(*b*) against such one or more of the defendants as may be found to be liable, according to their respective liabilities.

Interest of defendant.

20. It shall not be necessary that every defendant be interested as to all the relief claimed in any suit against him.

Joinder of parties liable on same contract.

21. The plaintiff may, at his option, join as parties to the same suit all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes.

One party may sue or defend on behalf of all in same interest.

22. (i) Where there are numerous persons having the same interest in one suit, one or more of such persons may, with the permission of the Court, sue or be sued, or may defend, in such suit, on behalf of or for the benefit of all persons so interested. But the Court shall in such case give, at the plaintiff's expense, notice of the institution of the suit to all such persons either by personal service or (where from the number of persons or any other cause such service is not reasonably practicable) by public advertisement, as the Court in each case may direct.

(ii) Any person on whose behalf or for whose benefit a suit is instituted or defended under sub-section (i) may apply to the Court to be made a party to such suit.

Suit not to fail by reason of misjoinder or non-joinder.

23. No suit shall be defeated by reason of the misjoinder or non-joinder of parties, and the Court may in every suit deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

Court may substitute or add parties.

24. (i) Where a suit has been instituted in the name of the wrong person as plaintiff, or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may at any stage of the suit, if satisfied that the suit has been so instituted through a *bonâ fide* mistake and that it is necessary for the determination of the real matter in dispute so to do, order any other person or persons to be substituted or added as plaintiff or plaintiffs upon such terms as the Court thinks just.

Court may dismiss or add parties.

(ii) The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as the Court thinks just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

(iii) No person shall be added as a plaintiff suing without a next friend, or as the next friend of a plaintiff under any disability, without his consent.

Where defendant added, plaint to be amended.

(iv) Where a defendant is added, the plaint shall, unless the Court otherwise directs, be amended in such manner as may be necessary, and amended copies of the summons and of the plaint shall be served on the new defendant and, if the Court thinks fit, on the original defendant.

(v) Subject to the provisions of the law for the time being relating to the limitation of suits, the proceedings as against any person

added as defendant shall be deemed to have begun only on the service of the summons.

25. The Court may give the conduct of the suit to such person as it deems proper. Conduct of suit.

26. (i) Where there are more plaintiffs than one, any one or more of them may be authorized by any other of them to appear, plead, or act for such other in any proceeding : and in like manner, where there are more defendants than one, any one or more of them may be authorized by any other of them to appear, plead, or act for such other in any proceeding. Appearance of one of several plaintiffs or defendants for others.

(ii) The authority shall be in writing signed by the party giving it, and shall be filed in Court.

27. All objections on the ground of non-joinder or misjoinder of parties shall be taken at the earliest possible opportunity and in all cases before the first hearing ; and any such objection not so taken shall be deemed to have been waived. Time for taking objections as to non-joinder or misjoinder.

Chapter IV.

FRAME OF SUIT.

28. Every suit shall, as far as practicable, be so framed as to afford ground for a final decision upon the subjects in dispute and to prevent further litigation concerning them. Suit, how to be framed.

29. (i) Every suit shall include the whole of the claim which the plaintiff desires to make in respect of the cause of action ; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court. Suit to include whole claim.

(ii) If a plaintiff omit to sue in respect of, or intentionally relinquish, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

(iii) A person entitled to more than one relief in respect of the same cause of action may sue for all or any of such reliefs ; but, if he omits (except with the leave of the Court) to sue for all such reliefs, he shall not afterwards sue for any relief so omitted.

(iv) For the purposes of this section an obligation and a collateral security for its performance and successive claims arising under the same obligation shall be deemed respectively to constitute but one cause of action.

Illustration.

A lets a house to B at a yearly rent of $1,200. The rent for the whole of the years 1905, 1906, and 1907 is due and unpaid. A sues B in 1908 only for the rent due for 1906. A shall not afterwards sue B for the rent due for 1905 or 1907.

30. No cause of action shall, unless with the leave of the Court, be joined with a suit for the recovery of immovable property or to obtain a declaration of title to immovable property, except Only certain claims to be joined with suit for recovery of land.

(*a*) claims in respect of mesne profits or arrears of rent in respect of the property claimed ;

(*b*) claims for damages for breach of any contract under which the property or any part thereof is held ; and

(*c*) claims by a mortgagee or chargee to enforce any of his remedies under the mortgage or charge.

Claims by or against executor.

31. No claim by or against an executor or administrator, as such, shall be joined with claims by or against him personally, unless the last-mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor or administrator or are such as he was entitled to, or liable for, jointly with the deceased person whom he represents.

Plaintiff may join several causes of action.

32. (i) Subject to the provisions of Chapter II and of Section 30, the plaintiff may unite in the same suit several causes of action against the same defendant or the same defendants jointly ; and any plaintiffs having causes of action in which they are jointly interested against the same defendant, or the same defendants jointly, may unite such causes of action in the same suit.

(ii) Where it appears to the Court that any such causes of action cannot be conveniently tried or disposed of together, the Court may at any time before the first hearing, of its own motion or on the application of any defendant, or at any subsequent stage of the suit if the parties agree, order separate trials of any such causes of action to be had or make such other order as may be necessary or expedient for the separate disposal thereof.

(iii) Where causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject-matters at the date of instituting the suit, whether or not an order has been made under sub-section (ii).

Defendant may apply to confine suit.

33. (i) Any defendant alleging that the plaintiff has united in the same suit several causes of action which cannot be conveniently disposed of in one suit may at any time before the first hearing, or, where issues are settled, before any evidence is recorded, apply to the Court for an order confining the suit to such of the causes of action as may be conveniently disposed of in one suit.

(ii) Where, on the hearing of such application, it appears to the Court that the causes of action are such as cannot all be conveniently disposed of in one suit, the Court may order any of such causes of action to be excluded, and may direct the plaint to be amended accordingly, and may make such order as to costs as may be just.

(iii) Every amendment made under this section shall be attested by the signature of the Judge.

Chapter V.

RECOGNIZED AGENTS AND SOLICITORS.

Appearance, etc., may be in person, by recognized agent or by solicitor.

34. Any appearance, application, or act in or to any Court, required or authorized by law to be made or done by a party to a suit or appeal in such Court, may, except where otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent, or by a solicitor duly appointed to act on his behalf.

Provided that any such appearance shall, if the Court so directs, be made by the party in person.

Recognized agents.

35. The recognized agents of parties by whom such appearances, applications, and acts may be made or done are

(*a*) persons holding powers of attorney from parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application, or act is made or done, authorizing them to make and do such appearances, applications, and acts on behalf of such parties ;

(*b*) persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application, or act is made or done, in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications, and acts.

Service of process on recognized agent.

36. (i) Processes served on the recognized agent of a party to a suit or appeal shall be as effectual as if the same had been served on the party in person, unless the Court otherwise directs.

(ii) The provisions of this Code for the service of process on a party to a suit shall apply to the service of process on his recognized agent.

Appointment of solicitor.

37. The appointment of a solicitor to make or do any appearance, application. or act as aforesaid shall be in writing and shall be filed in Court. When so filed it shall be considered to be in force until revoked, with the leave of the Court, by a writing signed by the client and filed in Court, or until the client or the solicitor dies or all proceedings in the suit are ended so far as regards the client.

Service of process on solicitor.

38. Processes served on the solicitor of any party or left at the office of such solicitor, or at his ordinary residence if he have no office, relative to a suit or appeal, and whether the same be for the personal appearance of the party or not, shall be presumed to be duly communicated and made known to the party whom the solicitor represents, and, unless the Court otherwise directs, shall be as effectual for all purposes in relation to the suit or appeal as if the same had been given to or served on the party in person.

Agent to accept service.

39. (i) Besides the recognized agents described in Section 35 any person residing within the jurisdiction of the Court may be appointed an agent to accept service of process.

(ii) Such appointment may be special or general and shall be made by an instrument in writing signed by the principal, and such instrument, or, if the appointment be general, a certified copy thereof, shall be filed in Court.

Chapter VI.

INSTITUTION OF SUITS.

Suits to be commenced by plaint.

40. Every suit shall be instituted by presenting a plaint to the Court or such officer as it appoints in this behalf.

Language and contents of plaint.

41. (i) The plaint shall be distinctly written in English and shall contain the following particulars :

(*a*) the name of the Court in which the suit is brought;

(*b*) the name, description, and place of residence of the plaintiff;

(*c*) the name, description, and place of residence of the defendant, so far as they can be ascertained;

(*d*) a plain and concise statement of the circumstances constituting the cause of action, and where and when it arose;

(*e*) a demand of the relief which the plaintiff claims; and

(*f*) if the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished.

(ii) Where the plaintiff seeks the recovery of money, the plaint shall state the precise amount claimed.

But where the plaintiff sues for mesne profits, or for an amount which will be found due to him on taking unsettled accounts between him and the defendant, the plaint shall state approximately the amount sued for.

(iii) Where the plaintiff sues in a representative character, the plaint shall shew not only that he has an actual existing interest in the subject-matter but that he has taken the steps (if any) necessary to enable him to institute a suit concerning it.

ILLUSTRATIONS.

(*a*) A sues as B's executor. The plaint must state that A has proved B's will.

(*b*) A sues as C's administrator. The plaint must state that A has taken out administration to C's estate.

(iv) The plaint shall shew that the defendant is or claims to be interested in the subject-matter and that he is liable to be called upon to answer the plaintiff's demand.

ILLUSTRATION.

A dies, leaving B his executor, C his legatee, and D a debtor to A's estate. C sues D to compel him to pay his debt in satisfaction of C's legacy. The plaint must shew that B has causelessly refused to sue D, or that B and D have colluded for the purpose of defrauding C, or other such circumstances rendering D liable to C.

(v) Where the cause of action arose beyond the period ordinarily allowed by any law for instituting the suit, the plaint shall shew the ground upon which exemption from such law is claimed.

Plaint to be signed and verified.

42. The plaint shall be signed by the plaintiff and his solicitor (if any) and shall be verified at the foot by the plaintiff or by some other person proved, to the satisfaction of the Court, to be acquainted with the facts of the case.

Provided that, where the plaintiff is, by reason of absence or for other good cause, unable to sign the plaint, it may be signed by any person duly authorized by him in this behalf.

Contents of verification.

43. The verification shall be to the effect that the same is true to the knowledge of the person making it, except as to matters stated on information and belief, and that as to those matters he believes it to be true.

The verification shall be signed by the person making it.

44. (i) The plaint may, at the discretion of the Court, Where plaint may be rejected, returned for amendment, or amended.

(*a*) at, or at any time before, the settlement of issues be rejected if it does not disclose a cause of action ;

(*b*) at, or at any time before, the settlement of issues be returned for amendment within a time to be fixed by the Court, and upon such terms as to the payment of costs occasioned by such amendment as the Court thinks fit, if it

(1) is not signed and verified as hereinbefore required,

(2) does not state correctly and without prolixity the several particulars hereinbefore required or contains particulars other than those so required,

(3) is wrongly framed by reason of non-joinder or misjoinder of parties, or joins causes of action which ought not to be joined in the same suit, or

(4) is not framed in accordance with the provisions of Section 28 ;

(*c*) at any time before judgment be amended by the Court upon such terms as to the payment of costs as the Court thinks fit.

Provided that a plaint shall not be amended, either by the party to whom it is returned for amendment or by the Court, so as to convert a suit of one character into a suit of another and inconsistent character.

(ii) Where a plaint is amended under this section, the amendment shall be attested by the signature of the Judge.

45. The plaint shall be rejected in the following cases : Where plaint shall be rejected.

(*a*) where the relief sought is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so ;

(*b*) where the relief sought is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply properly stamped paper within a time to be fixed by the Court, fails to do so ;

(*c*) where the suit appears from the statement in the plaint to be barred by any law ;

(*d*) where the plaint, having been returned for amendment within a time fixed by the Court, is not amended within such time.

46. Where a plaint is rejected, the Judge shall record with his own hand an order to that effect with the reason for such order. Procedure on rejecting plaint.

47. The rejection of the plaint on any of the grounds hereinbefore mentioned shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action. Where rejection of plaint does not preclude presentation of fresh plaint.

Where plaint shall be returned to be presented to proper Court.

48. (i) The plaint shall be returned to be presented to the proper Court

(*a*) where a suit has been instituted in a Court whose grade is lower or higher than that of the Court competent to try it and no option as to the selection of the Court is allowed by law ;

(*b*) where the suit is one which under the provisions of "The Courts Enactment, 1918," the Court to which the plaint has been presented has no jurisdiction to try ;

(*c*) where, in any other case, it appears that the cause of action did not arise, and that none of the defendants are dwelling or carrying on business, or personally working for gain, within the local limits of the jurisdiction of the Court to which the plaint is presented.

(ii) On returning a plaint the Judge, or the Registrar by his order, shall endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reason for returning it.

Procedure on admitting plaint.

49. (i) The plaintiff shall endorse on the plaint, or annex thereto, a memorandum of the documents (if any) which he has produced along with it ; and, if the plaint is admitted, shall present as many copies on plain paper of the plaint as there are defendants, unless the Court by reason of the length of the plaint or the number of the defendants, or for any other sufficient reason, permits him to present a like number of concise statements of the nature of the claim made or of the relief or remedy required, in the suit, in which case he shall present such concise statements.

(ii) If the plaintiff sues, or the defendant or any of the defendants is sued, in a representative capacity, such concise statement shall shew in what capacity the plaintiff or defendant sues or is sued.

(iii) The plaintiff may, by leave of the Court, amend such concise statements so as to make them correspond with the plaint.

(iv) The chief ministerial officer of the Court shall sign such memorandum and copies or concise statements if, on examination, he finds them to be correct.

(v) The Court shall cause the particulars mentioned in Section 41 to be entered in a book to be kept for the purpose and called the register of civil suits. Such entries shall be numbered in every year according to the order in which plaints are admitted.

Production of document on which plaintiff sues.

50. (i) Where a plaintiff sues upon a document in his possession or power, he shall produce it in the Court when the plaint is presented and shall at the same time deliver the document or a copy thereof to be filed with the plaint.

(ii) Where he relies on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall enter such documents in a list to be annexed to the plaint.

(iii) This section applies only to documents which are in their nature the essence of the case and on which the plaint is founded.

51. In the case of any such document not in his possession or power, he shall, if possible, state in whose possession or power it is. Statement in case of documents not in his possession or power.

52. In the case of any suit founded upon a negotiable instrument, if it be proved that the instrument is lost, and if an indemnity be given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon such instrument, the Court may make such decree as it would have made if the plaintiff had produced the instrument in Court when the plaint was presented and had at the same time delivered a copy of the instrument to be filed with the plaint. Suits on lost negotiable instruments.

53. (i) Where the document on which the plaintiff sues is an entry in a shop-book or other book in his possession or power, the plaintiff shall produce the book at the time of filing the plaint, together with a copy of the entry on which he relies. Production of shop-book.

(ii) The Court, or such officer as it appoints in this behalf, shall forthwith mark the document for the purpose of identification and, after examining and comparing the copy with the original and attesting the copy if found correct, shall return the book to the plaintiff and cause the copy to be filed.

54. (i) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be annexed to the plaint, and which is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit. Inadmissibility of document not produced when plaint filed.

(ii) Nothing in this section applies to documents produced for cross-examination of the defendant's witnesses or in answer to any case set up by the defendant or handed to a witness merely to refresh his memory.

Chapter VII.

ISSUE AND SERVICE OF SUMMONS.

ISSUE OF SUMMONS.

55. (i) When the plaint has been registered and the copies or concise statements required by Section 49 have been filed, a summons may be issued to each defendant to appear and answer the claim, on a day to be therein specified, Summons.

(*a*) in person, or

(*b*) by a solicitor duly instructed and able to answer all material questions relating to the suit, or

(*c*) by a solicitor accompanied by some other person able to answer all such questions.

Provided that no such summons shall be issued when the defendant has appeared at the presentation of the plaint and admitted the plaintiff's claim.

(ii) Every such summons shall be signed by the chief ministerial officer of the Court, and shall be sealed with the seal of the Court.

56. Every such summons shall be accompanied by one of the copies or concise statements mentioned in Section 49. Copy or statement annexed to summons.

Court may order defendant or plaintiff to appear in person.

57. (i) Where the Court sees reason to require the personal appearance of the defendant, the summons shall order him to appear in person in Court on the day therein specified.

(ii) Where the Court sees reason to require the personal appearance of the plaintiff on the same day, it may make an order for such appearance.

No party to be ordered to appear unless resident within local limits of Court.

58. No party shall be ordered to appear in person unless he resides within the local limits of the jurisdiction of the Court.

Summons to be either to settle issues or for final disposal.

59. The Court shall determine, at the time of issuing the summons, whether it shall be for the settlement of issues only, or for the final disposal of the suit; and the summons shall contain a direction accordingly.

Provided that, in every suit heard by any Court other than the Supreme Court, the summons shall be for the final disposal of the suit.

Fixing day for appearance of defendant.

60. The day for the appearance of the defendant shall be fixed by the Court with reference to its current business, the place of residence of the defendant, and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant sufficient time to enable him to appear and answer on such day.

What is "sufficient time" shall be determined with reference to the circumstances of the case.

Summons to order defendant to produce documents required by plaintiff or relied on by defendant.

61. The summons to appear and answer shall order the defendant to produce any document in his possession or power, containing evidence relating to the merits of the plaintiff's case, or upon which the defendant intends to rely in support of his case.

On issue of summons for final disposal, defendant to be directed to produce his witnesses.

62. When the summons is for the final disposal of the suit, it shall direct the defendant to produce, on the day fixed for his appearance, the witnesses upon whose evidence he intends to rely in support of his case.

SUMMONS FOR SERVICE OUT OF THE FEDERATED MALAY STATES

Leave of Supreme Court.

63. No summons for service on a defendant out of the Federated Malay States shall be issued by any Court without the leave of the Supreme Court or a Judge thereof.

Procedure to obtain leave to issue.

64. Any party desiring that a summons be issued for service on a defendant out of the Federated Malay States shall deliver to the Registrar of the Supreme Court the summons and copy which he desires to issue, and the title of the intended suit shall be entered in the register of civil suits of the Court in which the said suit is to be instituted, and the next serial number shall provisionally be assigned to such summons. The application for leave to issue shall be by summons in Chambers, and, on production of the summons bearing a note or memorandum, signed by a Judicial Commissioner or by the Registrar, giving leave for the issue of a summons the summons, completed in accordance with the terms of such order, shall be sealed and issued.

65. (i) Service out of the Federated Malay States may be allowed by the Supreme Court or a Judge thereof whenever

When service out of the Federated Malay States may be allowed.

(*a*) the whole subject-matter of the suit is immovable property situate within the Federated Malay States (with or without rents or profits) ; or

(*b*) any act, instrument, will, contract, obligation, or liability affecting immovable property situate within the Federated Malay States is sought to be construed, rectified, set aside, or enforced in the suit ; or

(*c*) any relief is sought against any person domiciled or ordinarily resident within the Federated Malay States ; or

(*d*) the action is for the administration of the estate of any deceased person, who, at the time of his death, was domiciled, or ordinarily resided, or carried on business, within the Federated Malay States, or for the execution (as to property situate within the Federated Malay States) of the trusts of any written instrument, of which the person to be served is a trustee, which ought to be executed according to the law of the Federated Malay States ; or

(*e*) the action is founded on the breach or alleged breach within the Federated Malay States, of any contract wherever made, which according to the terms thereof ought to be performed within the Federated Malay States ; or

(*f*) any injunction is sought as to anything to be done within the Federated Malay States, or any nuisance within the Federated Malay States is sought to be prevented or removed, whether damages are or are not also sought in respect thereof ; or

(*g*) any person out of the Federated Malay States is a necessary or proper party to a suit properly brought against some other person duly served within the Federated Malay States.

(ii) Any order giving leave to effect such service shall, unless the mode of service be prescribed by this Code, direct in what mode service is to be effected, and the reasonable expenses of such service shall be allowed.

66. Every application for leave to issue a summons for service on a defendant out of the Federated Malay States shall be supported by an affidavit or other evidence, stating that, in the belief of the deponent, the plaintiff has a good cause of action, and shewing in what place or country such defendant is or probably may be found, the ordinary means of communication with such place or country, and the grounds on which the application is made ; and no such leave shall be granted unless it is made sufficiently to appear to the Court or Judge that the case is a proper one for service out of the Federated Malay States under this section. A copy of the plaint shall be filed with the application.

Affidavit in support of application for service out of the Federated Malay States.

SERVICE OF SUMMONS.

Delivery of summons for service.

67. If the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept service of the summons, the summons shall ordinarily be delivered or sent to the proper officer to be served by him or one of his subordinates.

Mode of service.

68. Service of the summons shall be made by delivering or tendering a copy thereof signed by the chief ministerial officer of the Court and sealed with the seal of the Court.

Service on several defendants.

69. Except as otherwise provided by this Code, where there are more defendants than one, service of the summons shall be made on each defendant.

Service to be on defendant in person when practicable, or on his agent.

70. Wherever it is practicable, the service shall be made on the defendant in person, unless he have an agent empowered to accept service, in which case service on such agent shall be sufficient.

Service on agent by whom defendant carries on business.

71. (i) In a suit relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the Court from which the summons issues, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed good service.

(ii) For the purpose of this section the master of a ship is the agent of his owner or charterer.

Service on agent in charge, in suits for immovable property.

72. Where in a suit to obtain relief respecting, or compensation for wrong to, immovable property, the service cannot be made on the defendant in person, and the defendant has no agent empowered to accept service, it may be made on any agent of the defendant in charge of the property.

When service may be on male member of defendant's family.

73. Where in any suit the defendant cannot be found and has no agent empowered to accept service of the summons on his behalf, the service may be made on any adult male member of the family of the defendant who is residing with him.

EXPLANATION.—A servant is not a member of the family within the meaning of this section.

Person served to sign acknowledgment.

74. Where the serving-officer delivers or tenders a copy of the summons to the defendant personally, or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgment of service endorsed on the original summons.

Procedure where defendant refuses to accept service, or cannot be found.

75. Where

(*a*) the defendant or other person refuses or is unable to sign the acknowledgment, or

(*b*) the serving-officer cannot find the defendant, and there is no agent empowered to accept service of the summons on his behalf, nor any other person on whom the service can be made,

the serving-officer shall affix a copy of the summons on the outer door of the house in which the defendant ordinarily resides and then return the original to the Court from which it issued, with a return endorsed thereon or annexed thereto stating that he has so affixed the copy and the circumstances under which he did so.

Endorsement of time and manner of service.

76. The serving-officer shall, in all cases in which the summons has been served under Section 74, endorse or annex, or cause to be endorsed or annexed, on or to the original summons a return stating the time when and the manner in which the summons was served.

Examination of serving-officer.

77. Where a summons is returned under Section 75, the Court shall, if the return under that section has not been verified by the affidavit of the serving-officer, and may if it has been so verified, examine the serving-officer on affirmation, or cause him to be so examined by another Court, touching his proceedings, and may make such further enquiry in the matter as it thinks fit ; and shall either declare that the summons has been duly served or order such service as it thinks fit.

Substituted service.

78. (i) Where the Court is satisfied that there is reason to believe that the defendant is keeping out of the way for the purpose of avoiding service, or that for any other reason the summons cannot be served in the ordinary way, the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the Court-house and also upon some conspicuous part of the house, if any, in which the defendant is known to have last resided, or in such other manner as the Court thinks fit.

(ii) The Court may also, in any case falling within the terms of sub-section (i), make an order for the substitution for service of notice by advertisement in the *Gazette* and in such local newspaper or newspapers as the Court may think fit.

(iii) Service substituted by order of the Court shall be as effectual as if it had been made on the defendant personally.

(iv) Where service is substituted by order of the Court, the Court shall fix such time for the appearance of the defendant as the case may require.

Service of summons when defendant resides within jurisdiction of another Court and has no agent to accept service.

79. (i) If the defendant resides within the jurisdiction of any Court in the Federated Malay States other than the Court in which the suit is instituted and has no agent resident within the local limits of the jurisdiction of the latter Court empowered to accept service of the summons, such Court shall send the summons, either by one of its officers or by post, to any Court having jurisdiction at the place where the defendant resides by which it can be conveniently served, and shall fix such time for the appearance of the defendant as the case may require.

(ii) The Court to which the summons is sent shall, upon receipt thereof, proceed as if it had been issued by such Court, and shall then return the summons to the Court from which it originally issued, together with the record (if any) of its proceedings with regard thereto.

Service on defendant in prison.

80. (i) Where the defendant is confined in a prison, the summons shall be delivered to the officer in charge of the prison, and such officer shall cause the summons to be served upon the defendant.

(ii) The summons shall be returned to the Court from which it issued, with a statement of the service endorsed thereon and signed by the officer in charge of the prison and by the defendant.

(iii) If the prison in which the defendant is confined is not in the district in which the suit is instituted, the summons may be sent by post or otherwise to the officer in charge of such prison, and such officer shall cause the summons to be served upon the defendant and shall return the summons to the Court from which it issued, with a statement of the service endorsed thereon and signed as provided in sub-section (ii).

Service in the Colony.

81. Where the defendant resides in the Colony, the summons may be sent by registered post to the Registrar or to an Assistant Registrar of the Supreme Court of the Colony, and if the summons be returned with an endorsement of service thereon and with an affidavit of such service purporting to have been made before and authenticated by the official seal of such Registrar or Assistant Registrar, the summons shall be deemed to have been duly served.

Service where defendant resides out of the Federated Malay States and Colony and has no agent to accept service.

82. Where the defendant does not reside in the Federated Malay States or in the Colony and has no agent in the Federated Malay States empowered to accept service, the summons shall be addressed to the defendant at the place where he is residing and forwarded to him by registered post, if the defendant's address be known and if there be postal communication between such place and the place where the Court is situate.

Substitution of letter for summons.

83. (i) The Court may, notwithstanding anything hereinbefore contained, substitute for the summons a letter signed by the Judge where the defendant is, in the opinion of the Court, of a rank which entitles him to such mark of consideration.

(ii) The letter shall contain all the particulars required to be stated in the summons and, subject to the provisions of sub-section (iii), shall be treated in all respects as a summons.

(iii) A letter so substituted for a summons may be sent to the defendant by registered post or by a special messenger selected by the Court, or in any other manner which the Court thinks fit; and where the defendant has an agent empowered to accept service of summons, the letter may be delivered or sent to such agent.

SERVICE OF PROCESS GENERALLY.

Process to be served at expense of party issuing.

84. (i) Every process issued under this Code shall be served at the expense of the party on whose behalf it is issued, unless the Court otherwise directs.

(ii) The Court fee payable for such service shall be paid within a time to be fixed by the Court before the process is issued.

Notices and orders in writing, how served.

85. Subject to the provisions of Sections 34 to 39, all notices and orders required by this Code to be given to or served on any person shall be in writing and shall be served in the manner hereinbefore provided for the service of the summons.

POSTAGE.

Postage.

86. (i) Postage, where chargeable on any notice, summons, or letter issued under this Code and forwarded by post, and the fee for registering the same, shall be paid within a time to be fixed by the Court before the communication is forwarded ; provided that a Judicial Commissioner may remit such postage or fee or both.

(ii) The Judicial Commissioners may, with the approval of the Chief Secretary, prescribe a scale of Court fees to be paid in lieu of such postage and registration fees.

Chapter VIII.

WRITTEN STATEMENT AND SET-OFF.

Written statements.

87. The parties may, at any time before or at the first hearing of the suit, tender written statements of their respective cases, and the Court shall receive such statements and place them on the record.

Particulars of set-off to be given in written statement.

88. (i) Where in a suit for the recovery of money the defendant claims to set off against the plaintiff's demand any ascertained sum of money legally recoverable by him from the plaintiff, not exceeding the pecuniary limits of the jurisdiction of the Court, and in such claim of the defendant against the plaintiff both parties fill the same character as they fill in the plaintiff's suit, the defendant may at the first hearing of the suit, but not afterwards unless permitted by the Court, tender a written statement containing the particulars of the debt sought to be set-off.

(ii) The written statement shall have the same effect as a plaint in a cross suit so as to enable the Court to pronounce a final judgment in respect both of the original claim and of the set-off ; but this shall not affect the lien, upon the amount decreed, of any solicitor in respect of the costs payable to him under the decree.

ILLUSTRATIONS.

(*a*) A bequeaths $2,000 to B, and appoints C his executor and residuary legatee. B dies and D takes out administration to B's effects. C pays $1,000 as surety for D. Then D sues C for the legacy. C cannot set-off the debt of $1,000 against the legacy, for neither C nor D fills the same character with respect to the legacy as they fill with respect to the payment of the $1,000.

(*b*) A dies intestate and in debt to B. C takes out administration to A's effects, and B buys part of the effects from C. In a suit for the purchase-money by C against B the latter cannot set-off the debt against the price, for C fills two different characters, one as the vendor to B, in which he sues B, and the other as representative to A.

(*c*) A sues B on a bill of exchange. B alleges that A has wrongfully neglected to insure B's goods and is liable to him in compensation, which he claims to set-off. The amount not being ascertained cannot be set-off.

(*d*) A sues B on a bill of exchange for $500. B holds a judgment against A for $1,000. The two claims, being both definite pecuniary demands, may be set-off.

(*e*) A sues B for compensation on account of a trespass. B holds a promissory note for $1,000 from A and claims to set-off that amount against any sum that A may recover in the suit. B may do so, for, as soon as A recovers, both sums are definite pecuniary demands.

(*f*) A and B sue C for $1,000. C cannot set-off a debt due to him by A alone.

(*g*) A sues B and C for $1,000. B cannot set-off a debt due to him alone by A.

(*h*) A owes the partnership firm of B and C $1,000. B dies leaving C surviving. A sues C for a debt of $1,500 due in his separate character. C may set-off the debt of $1,000.

No written statement to be received after first hearing.

89. Except as provided in the last preceding section, no written statement shall be received after the first hearing of the suit.

Provided that the Court may at any time require a written statement, or additional written statement, from any of the parties, and fix a time for presenting the same.

Provided also that a written statement, or an additional written statement, may, with the permission of the Court, be received at any time for the purpose of answering written statements so required and presented.

Procedure when party fails to present written statement called for by Court.

90. Where any party from whom a written statement is so required fails to present the same within the time fixed by the Court, the Court may pass a decree against him or make such order in relation to the suit as it thinks fit.

Frame of written statement.

91. (i) Written statements shall be as brief as the nature of the case admits, and shall not be argumentative, but shall be confined as much as possible to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he either admits or believes he will be able to prove.

(ii) Every such statement shall be divided into paragraphs, numbered consecutively, each paragraph containing as nearly as may be a separate allegation.

Written statements to be signed and verified.

92. Written statements shall be signed and verified in the manner hereinbefore provided for signing and verifying plaints, and no written statement shall be received unless it is so signed and verified.

Power of Court as to argumentative, prolix, or irrelevant written statement.

93. (i) Where it appears to the Court that any written statement, whether called for by the Court or spontaneously tendered, is argumentative or prolix, or contains matter irrelevant to the suit, the Court may amend it then and there, or may, by an order to be endorsed thereon, reject the same, or return it to the party by whom it was made for amendment within a time to be fixed by the Court, imposing such terms as to costs or otherwise as the Court thinks fit.

(ii) Where any amendment is made under this section, the Judge shall attest it by his signature.

(iii) Where a written statement has been rejected under this section, the party making it shall not present another written statement unless it be expressly called for or allowed by the Court.

Chapter IX.

Appearance of parties and consequence of non-appearance.

Parties to appear on day fixed in summons for defendant to appear and answer.

94. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person or by their respective solicitors, and the suit shall then be

heard, unless the hearing be adjourned to a future day fixed by the Court.

Dismissal of suit where summons not served in consequence of plaintiff's failure to pay fee for issuing.

95. Where on the day so fixed it is found that the summons has not been served upon the defendant in consequence of the failure of the plaintiff to pay the Court fee payable for such service, the Court may make an order that the suit be dismissed.

Provided that no such order shall be made, although the summons has not been served upon the defendant, if, on the day fixed for him to appear and answer, he attends in person or by agent, when he is allowed to appear by agent.

Where neither party appears, suit to be dismissed.

96. Where on the day fixed for the defendant to appear and answer, or on any other subsequent day to which the hearing of the suit is adjourned, neither party appears when the suit is called on for hearing, the suit shall be dismissed, unless the Judge, for reasons to be recorded under his hand, otherwise directs.

In such case plaintiff may bring fresh suit, or Court may restore suit to its file.

97. Where a suit is dismissed under Section 95 or Section 96, the plaintiff may (subject to the law of limitation) bring a fresh suit ; or he may apply for an order to set the dismissal aside, and if, within the period of thirty days from the date of the order dismissing the suit, he satisfies the Court that there was sufficient cause for his not paying the Court fee required within the time fixed before the issue of the summons, or for his non-appearance, as the case may be, the Court shall make an order setting aside the dismissal and shall appoint a day for proceeding with the suit.

Dismissal of suit where plaintiff, after summons returned unserved, fails for a year to apply for fresh summons.

98. (i) Where after a summons has been issued to the defendant, or to one of several defendants, and returned unserved, the plaintiff fails for a period of one year from such return to apply for the issue of a fresh summons and to satisfy the Court that he has used his best endeavours to discover the residence of the defendant who has not been served, or that such defendant is avoiding service of process, the Court may make an order that the suit be dismissed as against such defendant.

(ii) In such case the plaintiff may (subject to the law of limitation) bring a fresh suit.

Procedure where only plaintiff appears.

99. (i) Where the plaintiff appears and the defendant does not appear when the suit is called on for hearing, then

(*a*) if it is proved that the summons was duly served, the Court may proceed *ex parte* ;

(*b*) if it is not proved that the summons was duly served, the Court shall direct a second summons to be issued and served on the defendant ;

(*c*) if it is proved that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and shall direct notice of such day to be given to the defendant.

(ii) Where it is owing to the plaintiff's default that the summons was not duly served or was not served in sufficient time, the Court

shall order the plaintiff to pay the costs occasioned by the postponement.

Procedure where defendant appears on day of adjourned hearing and assigns good cause for previous non-appearance.

100. Where the Court has adjourned the hearing of the suit *ex parte*, and the defendant, at or before such hearing, appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Court directs as to costs or otherwise, be heard in answer to the suit as if he had appeared on the day fixed for his appearance.

Procedure where defendant only appears.

101. Where the defendant appears and the plaintiff does not appear when the suit is called on for hearing, the Court shall make an order that the suit be dismissed, unless the defendant admits the claim, or part thereof, in which case the Court shall pass a decree against the defendant upon such admission, and, where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder.

Decree against plaintiff by default bars fresh suit.

102. (i) Where a suit is wholly or partly dismissed under Section 101, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action. But he may apply for an order to set the dismissal aside ; and, if he satisfies the Court that there was sufficient cause for his non-appearance when the suit was called on for hearing, the Court shall make an order setting aside the dismissal upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.

(ii) No order shall be made under this section unless the plaintiff has served the defendant with notice in writing of his application.

Procedure where defendant residing out of the Federated Malay States does not appear.

103. Where on the day fixed for the hearing of a suit against a defendant residing out of the Federated Malay States, who has no agent empowered to accept service of summons, or on any day to which the hearing has been adjourned, the defendant does not appear, the plaintiff may apply to the Court for permission to proceed with his suit, and the Court may direct that the plaintiff be at liberty to proceed with his suit in such manner and subject to such conditions as the Court thinks fit.

Procedure in case of non-attendance of one or more of several plaintiffs.

104. Where there are more plaintiffs than one, and one or more of them appear and the others do not appear, the Court may, at the instance of the plaintiff or plaintiffs appearing, permit the suit to proceed in the same way as if all the plaintiffs had appeared, or make such order as it thinks fit.

Procedure in case of non-attendance of one or more of several defendants.

105. Where there are more defendants than one, and one or more of them appear and the others do not appear, the suit shall proceed, and the Court shall, at the time of passing judgment, make such order as it thinks fit with respect to the defendants who do not appear.

Consequence of non-attendance, without sufficient cause shewn, of party ordered to appear.

106. Where a plaintiff or defendant who has been ordered to appear in person does not appear in person, or shew sufficient cause to the satisfaction of the Court for failing so to appear, he shall be subject to all the provisions of the foregoing sections applicable to plaintiffs and defendants, respectively, who do not appear.

SETTING ASIDE DECREES EX PARTE.

Setting aside decree *ex parte* against defendant.

107. In any case in which a decree is passed *ex parte* against a defendant, he may apply to the Court by which the decree was passed for an order to set it aside ; and if he satisfies the Court that the summons was not duly served, or that he was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall make an order setting aside the decree as against him upon such terms as to costs, payment into Court or otherwise, as it thinks fit, and shall appoint a day for proceeding with the suit.

Provided that where the decree is of such a nature that it cannot be set aside as against such defendant only, it may be set aside as against all or any of the other defendants also.

No decree to be set aside without notice to opposite party.

108. No decree shall be set aside on any such application as aforesaid, unless notice thereof in writing has been served on the opposite party.

Chapter X.

EXAMINATION OF PARTIES BY THE COURT.

Ascertainment whether allegations in plaint and written statement admitted or denied.

109. At the first hearing of the suit the Court shall ascertain from each party or his solicitor whether he admits or denies such allegations of fact as are made in the plaint or written statement (if any) of the opposite party, and as are not expressly or by necessary implication admitted or denied by the party against whom they are made. The Court shall record such admissions and denials.

Oral examination of party or companion of party.

110. At the first hearing of the suit, or at any subsequent hearing, any party appearing in person or present in Court, or any person able to answer any material questions relating to the suit by whom such party or his solicitor is accompanied, may be examined orally by the Court : and the Court may, if it thinks fit, put in the course of such examination questions suggested by either party.

Substance of examination to be written.

111. The substance of the examination shall be reduced to writing by the Judge and shall form part of the record.

Consequence of refusal or inability of solicitor to answer.

112. (i) Where the solicitor of any party who appears by a solicitor or any such person accompanying a solicitor as is referred to in Section 110 refuses or is unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the suit to a future day and direct that such party shall appear in person on such day.

(ii) If such party fails without lawful excuse to appear in person on the day so appointed, the Court may pass a decree against him or make such order in relation to the suit as he thinks fit.

Chapter XI.

DISCOVERY AND INSPECTION.

Power to deliver interrogatories.

113. (i) Any party may at any time by leave of the Court deliver through the Court interrogatories in writing for the examination of the opposite party, or, where there are more opposite parties than

one, any one or more of such parties, with a note at the foot thereof stating which of such interrogatories each of such persons is required to answer.

(ii) No party shall deliver more than one set of interrogatories to the same party without an order for that purpose, and no defendant shall deliver interrogatories for the examination of the plaintiff unless such defendant has previously tendered a written statement and such statement has been received and placed on the record.

(iii) The Court shall not grant leave under sub-section (i) unless and until the party applying for such leave has deposited in Court the sum of fifty dollars as security for costs.

(iv) On an application for leave to deliver interrogatories, the particular interrogatories proposed to be delivered shall be submitted to the Court. In deciding upon such application the Court shall take into account any offer which may be made by the party sought to be interrogated to deliver particulars or to make admissions or to produce documents relating to the matters in question, or any of them, and shall be given as to such only of the interrogatories submitted as the Court shall consider necessary either for disposing fairly of the suit or for saving costs.

Service of interrogatories.

114. Interrogatories delivered under Section 113 shall be served on the solicitor (if any) of the party interrogated, or in the manner hereinbefore provided for the service of summons, and the provisions of Sections 74, 75, 76, and 77 shall, in the latter case, apply so far as may be practicable.

Costs of interrogatories.

115. The Court, in adjusting the costs of the suit, shall, at the instance of any party, enquire or cause enquiry to be made into the propriety of delivering such interrogatories ; and if it thinks that such interrogatories have been delivered unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be borne by the party in fault.

Service of interrogatories on officer of corporation or body.

116. Where any party to a suit is a corporation or a body of persons, whether incorporated or not, empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply to the Court for an order allowing him to deliver interrogatories to any member or officer of such corporation or body, and an order may be made accordingly.

Objections to interrogatories by answer.

117. Any objection to answering any interrogatory on the ground that it is scandalous or irrelevant or not delivered *bonâ fide* for the purpose of the suit, or that the matters enquired into are not sufficiently material at that stage, or on any other ground, may be taken in the affidavit in answer.

Setting aside and striking out interrogatories.

118. Any interrogatories may be set aside on the ground that they have been delivered unreasonably or vexatiously, or struck out on the ground that they are prolix, oppressive, unnecessary, or scandalous ; and any application for this purpose may be made within seven days after service of the interrogatories.

Time for filing affidavit in answer.

119. Interrogatories shall be answered by affidavit to be filed in Court within ten days from the service thereof or within such further time as the Court may allow.

120. No exceptions shall be taken to any affidavit in answer, but the sufficiency or otherwise of any such affidavit objected to as insufficient shall be determined by the Court. No exceptions to be taken.

121. Where any person interrogated omits to answer, or answers insufficiently, any interrogatory, the party interrogating may apply to the Court for an order requiring him to answer or to answer further, as the case may be. And an order may be made requiring him to answer or to answer further either by affidavit or by *viva voce* examination as the Court may direct. Procedure where party omits to answer sufficiently.

122. (i) Any party to a suit may, at any time before the first hearing, apply to the Court for an order directing any other party to the suit to declare by affidavit all the documents which are or have been in his possession or power relating to any matter in question in the suit. Order for declaration of all documents relating to suit.

(ii) On the hearing of such application the Court may either refuse or adjourn the same, if satisfied that such declaration is not necessary, or not necessary at that stage of the suit, or make such order either generally or limited to certain classes of documents as the Court may in its discretion think fit ; provided that such declaration shall not be ordered when and so far as the Court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs, and shall not in any case be ordered unless and until the party applying for such order has deposited in Court the sum of fifty dollars as security for costs.

(iii) The affidavit to be made by a party against whom an order has been made under this section shall specify which, if any, of the documents therein mentioned the declarant objects to produce, together with the grounds of such objection.

123. The Court may, at any time during the pendency of any suit, order the production by any party thereto of such of the documents in his possession or power relating to any matter in question in such suit as the Court thinks right ; and the Court may deal with such documents when produced in such manner as appears just. Power to order production of documents during suit.

124. (i) Any party to a suit may at any time before or at the hearing thereof give notice in writing to any other party to produce any specified document for the inspection of the party giving such notice or of his solicitor and to permit such party or solicitor to take copies thereof. Notice to produce for inspection documents referred to in plaint, etc.

(ii) No party failing to comply with such notice shall afterwards be at liberty to put any such document in evidence on his behalf in such suit, unless he satisfies the Court that such document relates only to his own title, or that he had some other and sufficient cause for not complying with such notice.

(iii) Notice to produce documents shall be in the form contained in the third schedule, No. 122, with such variations as circumstances may require.

125. The party to whom such notice is given shall, within ten days from the receipt thereof, deliver to the party giving the same a notice in writing stating a time within three days from such delivery at which the documents, or such of them as he does not object to produce, may be inspected, at his solicitor's office or some Party receiving such notice to deliver notice when and where inspection may be had.

other convenient place, and stating which, if any, of the documents he objects to produce, and on what grounds.

Order for inspection.

126. (i) Where any party served with notice under Section 124 omits to give notice under Section 125 of the time for inspection, or objects to give inspection, or names an inconvenient place for inspection, the Court may, on the application of the party desiring it, make an order for inspection in such place and in such manner as it may think fit; provided that the order shall not be made when and so far as the Court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs.

(ii) Any application for an order for inspection of documents, other than documents referred to in the plaint, written statement, or affidavit of the party against whom the application is made, or disclosed in his affidavit of documents, shall be founded upon an affidavit shewing

(*a*) of what documents inspection is sought,

(*b*) that the party applying is entitled to inspect them, and

(*c*) that they are in the possession or power of the party against whom the application is made.

Power to order issue or question on which right to discovery depends to be first determined.

127. Where the party from whom discovery of any kind or inspection is sought objects to the same or any part thereof, the Court may, if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the suit, or that for any other reason it is desirable that any issue or question in dispute in the suit should be determined before deciding upon the right to the discovery or inspection, order that the issue or question be determined first and reserve the question as to the discovery or inspection.

Consequence of failure to answer or give inspection.

128. (i) Where any party fails to comply with any order to answer interrogatories or for discovery, production, or inspection which has been duly served, he shall, if a plaintiff, be liable to have his suit dismissed for want of prosecution, and, if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not defended; and the party interrogating or seeking discovery, production, or inspection may apply to the Court for an order to that effect, and an order may be made accordingly.

(ii) Any party failing to comply with any order under this Chapter, to answer interrogatories or for discovery, production, or inspection, which has been served personally upon him, shall also be deemed guilty of an offence under Section 188 of the Penal Code.

Chapter XII.

ADMISSIONS.

Power to demand admission of genuineness of documents.

129. (i) Any party to a suit may, by a notice through the Court, within a reasonable time not less than ten days before the hearing, require any other party to admit (saving all just exceptions to the admissibility of such document in evidence) the genuineness of any document material to the suit.

(ii) Such admission shall be in writing, signed by the other party or his solicitor and shall be filed in Court.

(iii) Where such notice is not given, no costs of proving such document shall be allowed, unless the Court otherwise directs.

(iv) Where such notice is not complied with within four days after its being served, and the Court thinks it reasonable that the admission should have been made, the party refusing shall bear the expense of proving such document, whatever the result of the suit may be.

Power to demand admission of facts.

130. (i) Any party may, by notice in writing, at any time not less than ten days, before the day fixed for the hearing, require any other party to admit, for the purposes of the suit only, any specific fact or facts mentioned in such notice.

(ii) Such notice shall be in numbered paragraphs signed by the party or his solicitor, with a margin on the right hand side of the paper on which it is written as nearly as may be one-third the width of the entire paper.

(iii) The admission shall, so far as possible, be written on the right hand margin of the notice. Whatever cannot be written on the said margin shall be continued on other paper attached to the notice. The admission shall be signed by the other party or his solicitor and filed in Court by such party or his solicitor.

(iv) In case of neglect to give such notice or of neglect or refusal to admit the fact or facts mentioned in such notice within six days after service of such notice, or within such further time as the Court may allow, the costs of proving such fact or facts shall be paid by the party so neglecting or refusing, whatever the result of the suit may be, unless the Court otherwise directs.

(v) Such admission shall be for the purposes of the particular suit and shall not be used against the party on any other occasion or in favour of any person other than the party giving the notice ; and the Court may at any time allow any party to amend or withdraw any admission so made on such terms as may be just.

Affidavit of signature of admissions.

131. An affidavit of the solicitor or his clerk of the due signature of any admissions consequent upon notice to admit documents or facts, of the service of any notice, or of the time when it was served, with a copy of the notice, shall in all cases be sufficient evidence thereof.

Application for judgment upon admissions of fact.

132. Any party may at any stage of a suit where admissions of fact have been made, either on the pleadings or otherwise, apply to the Court for such judgment or order as upon such admissions he may be entitled to, without waiting for the determination of any other question between the parties. The Court may upon such application make such order or give such judgment as the Court may think just.

Chapter XIII.

PRODUCTION, IMPOUNDING, AND RETURN OF DOCUMENTS.

Documentary evidence to be in readiness at first hearing.

133. (i) The parties or their solicitors shall bring with them and have in readiness at the first hearing of the suit, to be produced when called for by the Court, all the documentary evidence of every description in their possession or power, on which they intend to

rely, and which has not already been filed in Court, and all documents which the Court at any time before such hearing has ordered to be produced.

(ii) The Court shall receive the documents so produced ; provided that they are accompanied by an accurate list thereof prepared in such form as the Judicial Commissioners may from time to time prescribe.

Effect of non-production of documents.

134. No documentary evidence in the possession or power of any party which should have been, but has not been, produced in accordance with the requirements of Section 133 shall be received at any subsequent stage of the proceedings unless good cause is shewn to the satisfaction of the Court for the non-production thereof. And the Court receiving any such evidence shall record its reasons for so doing.

Rejection of documents.

135. The Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.

Endorsements on documents admitted in evidence.

136. (i) Subject to the provisions of sub-section (ii), there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars—namely,

(*a*) the number and title of the suit ;

(*b*) the date on which the document was produced ; and

(*c*) a letter or number by which it may be identified.

(ii) Where a document so admitted is an entry in a book, account, or record and a copy thereof has been substituted for the original under the next following section, the particulars aforesaid shall be endorsed on the copy and the endorsement thereon shall be signed or initialled by the Judge.

Marking entries in books, accounts, and records.

137. (i) Where a document admitted in evidence in the suit is an entry in a letter-book or shop-book or other account in current use, the party on whose behalf the book or account is produced may furnish a copy of the entry.

(ii) Where such a document is an entry in a public record produced from a public office or by a public officer, or an entry in a book or account belonging to a person other than a party on whose behalf the book or account is produced, the Court may require a copy of the entry to be furnished

(*a*) where the record, book, or account is produced on behalf of a party, then by that party ; or

(*b*) where the record, book, or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

(iii) Where a copy of an entry is furnished under the foregoing provisions of this section, the Court shall, after causing the copy to be examined, compared, and attested in manner mentioned in Section 53, mark the entry and cause the book, account, or record in which it occurs to be returned to the person producing it.

138. Where a document relied on as evidence by either party is considered by the Court to be inadmissible in evidence, there shall be endorsed thereon the particulars mentioned in clauses (*a*), (*b*), and (*c*) of Section 136 sub-section (i), and a statement of its having been rejected, and the endorsement shall be signed or initialled by the Judge. Endorsements on documents rejected as inadmissible in evidence.

139. (i) Every document which has been admitted in evidence, or a copy thereof where a copy has been substituted for the original under Section 137, shall form part of the record of the suit. Recording of admitted and return of rejected documents.

(ii) Documents not admitted in evidence shall not form part of the record and shall be returned to the persons respectively producing them.

140. Notwithstanding anything contained in Section 53, Section 137 sub-section (iii), or Section 139 sub-section (ii), the Court may, if it sees sufficient cause, direct any document or book produced before it in any suit to be impounded and kept in the custody of an officer of the Court for such period and subject to such conditions as the Court thinks fit. Court may order any document to be impounded.

141. (i) Any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit and placed on the record, shall, unless the document is impounded under Section 140, be entitled to receive back the same, Return of admitted documents

(*a*) where the suit is one in which an appeal is not allowed, when the suit has been disposed of, and

(*b*) where the suit is one in which an appeal is allowed, when the Court is satisfied that the time for preferring an appeal has elapsed and that no appeal has been preferred or, if an appeal has been preferred, when the appeal has been disposed of ;

Provided that a document may be returned at any time before either of such events if the person applying for such return delivers to the proper officer a certified copy of such document to be substituted for the original and undertakes to produce the original if required to do so.

Provided also that no document shall be returned which, by force of the decree, has become void or useless.

(ii) On the return of a document which has been admitted in evidence a receipt shall be given by the person receiving it in a receipt-book to be kept for the purpose.

142. (i) The Court may of its own motion, and may in its discretion upon the application of any of the parties to a suit, send for, either from its own records or from any other Court, the record of any other suit or proceeding and inspect the same. Court may send for papers from its own records or from other Courts.

(ii) Every application made under this section shall (unless the Court otherwise directs) be supported by an affidavit of the applicant or his solicitor shewing how the record is material to the suit in which the application is made, and that the applicant cannot without unreasonable delay or expense obtain a duly authenticated copy of the record or of such portion thereof as the applicant

requires, or that the production of the original is necessary for the purposes of justice.

(iii) Nothing contained in this section shall be deemed to enable the Court to use in evidence any document which under the law of evidence would be inadmissible in the suit.

Provisions as to documents apply to material objects.

143. The provisions herein contained as to documents shall, so far as may be, apply to all other material objects producible as evidence.

CHAPTER XIV.

SETTLEMENT OF ISSUES.

Framing of issues.

144. (i) Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other.

(ii) Material propositions are those propositions of law or fact which a plaintiff must allege in order to shew a right to sue or a defendant must allege in order to constitute his defence.

(iii) Each material proposition affirmed by one party and denied by the other must form the subject of a distinct issue.

(iv) Issues are of two kinds : (*a*) issues of fact, (*b*) issues of law.

(v) At the first hearing of the suit the Court may, if it thinks fit, after reading the plaint and the written statements, if any, and after such examination of the parties as may appear necessary, ascertain upon what material propositions of fact or of law the parties are at variance and thereupon proceed to frame and record the issues on which the right decision of the case appears to the Court to depend.

Issues of law and of fact.

145. Where issues both of law and of fact arise in a suit in which issues have been framed and recorded under sub-section (v) of Section 144 and the Court is of opinion that the case or any part thereof may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.

Materials from which issues may be framed.

146. The Court may frame the issues from all or any of the following materials :

(*a*) allegations made on oath by the parties, or by any persons present on their behalf, or made by the solicitors of the parties ;

(*b*) allegations made in the plaint or in the written statements (if any) tendered in the suit, or in answer to interrogatories delivered in the suit ;

(*c*) the contents of documents produced by either party.

Court may examine witnesses or documents before framing issues.

147. If the Court, in any case where it decides to frame and record issues, is of opinion that the issues cannot be correctly framed without the examination of some person not before the Court, or without the inspection of some document not produced in the suit, it may adjourn the framing of the issues to a future day, to be fixed by the Court, and may (subject to the provisions

of any law for the time being in force) compel the attendance of any person or the production of any document by the person in whose possession or power it is by summons or other process.

Power to amend, add, and strike out issues.

148. (i) In any case where issues have been framed and recorded under this Chapter, the Court may at any time before passing a decree amend the issues or frame additional issues on such terms as to costs or otherwise as it thinks fit, and all such amendments or additional issues as may be necessary for determining the controversy between the parties shall be so made or framed.

(ii) The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.

Questions of fact or law may by agreement be stated in form of issue.

149. Where the parties to a suit are agreed as to the question of fact or of law to be decided between them, they may state the same in the form of an issue and enter into an agreement in writing that, upon the finding of the Court in the affirmative or negative of such issue,

(*a*) a sum of money specified in the agreement, or to be ascertained by the Court or in such manner as the Court may direct, shall be paid by one of the parties to the other of them, or that one of them shall be declared entitled to some right or subject to some liability specified in the agreement ;

(*b*) some property specified in the agreement and in dispute in the suit shall be delivered by one of the parties to the other of them or as that other may direct ; or

(*c*) one or more of the parties shall do or abstain from doing some particular act specified in the agreement and relating to the matter in dispute.

Court, if satisfied that agreement was executed in good faith, may pronounce judgment.

150. Where the Court is satisfied, after making such enquiry as it deems proper,

(*a*) that the agreement was duly executed by the parties ;

(*b*) that they have a substantial interest in the decision of such question as aforesaid ; and

(*c*) that the same is fit to be tried and decided,

it may proceed to record and try the issue and state its finding or opinion thereon in the same manner as if the issue had been framed by the Court, and may, upon the finding or decision on such issue, pronounce judgment according to the terms of the agreement ; and upon the judgment so pronounced a decree shall follow.

Chapter XV.

DISPOSAL OF THE SUIT AT THE FIRST HEARING.

Parties not at issue.

151. Where at the first hearing of a suit it appears that the parties are not at issue on any question of law or of fact, the Court may at once pronounce judgment.

One of several defendants not at issue with plaintiff.

152. Where there are more defendants than one, and any one of the defendants is not at issue with the plaintiff on any question of law or of fact, the Court may at once pronounce judgment for or against such defendant and the suit shall proceed only against the other defendants.

Parties at issue.

153. (i) Where the parties are at issue on some question of law or of fact, and issues have been framed by the Court as hereinbefore provided, if the Court is satisfied that no further argument or evidence than the parties can at once adduce is required upon such of the issues as may be sufficient for the decision of the suit, and that no injustice will result from proceeding with the suit forthwith, the Court may proceed to determine such issues.

(ii) Where the finding thereon is sufficient for the decision, the Court may pronounce judgment accordingly, whether the summons has been issued for the settlement of issues only or for the final disposal of the suit. Provided that, where the summons has been issued for the settlement of issues only, the parties or their solicitors are present and none of them object.

(iii) Where the finding is not sufficient for the decision, the Court shall postpone the further hearing of the suit and shall fix a day for the production of such further evidence, or for such further argument, as the case requires.

Failure to produce evidence.

154. Where the summons has been issued for the final disposal of the suit and either party fails without sufficient cause to produce the evidence on which he relies, the Court may at once pronounce judgment, or may, if it thinks fit, adjourn the suit for the production of such evidence as may be necessary for its decision.

Chapter XVI.

SUMMONING AND ATTENDANCE OF WITNESSES.

Summons to attend to give evidence or produce documents.

155. At any time after the suit is instituted the parties may obtain, on application to the Court or to such officer as it appoints in this behalf, summonses to persons whose attendance is required either to give evidence or to produce documents.

Expenses of witness to be paid into Court on applying for summons.

156. (i) The party applying for a summons shall, before the summons is granted and within a period to be fixed by the Court, pay into Court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned in passing to and from the Court in which he is required to attend, and for one day's attendance.

(ii) In determining the amount payable under this section the Court may, in the case of any person summoned to give evidence as an expert, allow reasonable remuneration for the time occupied both in giving evidence and in performing any work of an expert character necessary for the case.

(iii) Regard shall be had, in fixing the scale of expenses or remuneration to be paid under this section to the rules (if any) made in that behalf by the Judicial Commissioners with the approval of the Chief Secretary.

Tender of expenses to witness.

157. The sum so paid into Court shall be tendered to the person summoned, at the time of serving the summons, if it can be served personally.

Procedure where insufficient sum paid in.

158. (i) Where no sum has been paid into Court or where it appears to the Court or to such officer as it appoints in this behalf that the sum paid into Court is not sufficient to cover such expenses or reasonable remuneration as aforesaid, the Court may direct such sum or further sum to be paid to the person summoned as appears to be necessary on that account, and, in case of default in payment, may order such sum to be levied by attachment and sale of the movable property of the party obtaining the summons; or the Court may discharge the person summoned without requiring him to give evidence, or may both order such levy and discharge such person as aforesaid.

(ii) Where it is necessary to detain the person summoned for a longer period than one day, the Court may, from time to time, order the party at whose instance he was summoned to pay into Court such sum as is sufficient to defray the expenses of his detention for such further period, and, in default of such deposit being made, may order such sum to be levied by attachment and sale of the movable property of such party; or the Court may discharge the person summoned without requiring him to give evidence, or may both order such levy and discharge such person as aforesaid.

Time, place, and purpose of attendance to be specified in summons.

159. Every summons for the attendance of a person to give evidence or to produce a document shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document which the person summoned is called on to produce shall be described in the summons with reasonable accuracy.

Summons to produce document.

160. Any person may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced instead of attending personally to produce the same.

Power to require persons present in Court to give evidence.

161. Any person present in Court may be required by the Court to give evidence or to produce any document then and there in his actual possession or power.

Summons, how served.

162. Every summons to a person to give evidence or to produce a document shall be served as nearly as may be in the manner hereinbefore prescribed for the service of summons on a defendant; and the rules contained in Chapter VII as to proof of service shall apply in the case of all summonses served under this section.

Time for serving summons.

163. The service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the person summoned, to allow him a reasonable time for preparation and for travelling to the place at which his attendance is required.

Procedure where witness fails to comply with summons.

164. (i) Where a person to whom a summons has been issued either to attend to give evidence or to produce a document fails to attend or to produce the document in compliance with such summons,

the Court shall, if the certificate of the serving-officer has not been verified by affidavit, and may if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court, touching the service or non-service of the summons.

(ii) Where the Court sees reason to believe that such evidence or production is material and that such person has, without lawful excuse, failed to attend or to produce the document in compliance with such summons or has intentionally avoided service, it may issue a proclamation requiring him to attend to give evidence, or to produce the document, at a time and place to be named therein ; and a copy of such proclamation shall be affixed on the outer door or other conspicuous part of the house in which he ordinarily resides.

(iii) In lieu of or at the time of issuing such proclamation, or at any time afterwards, the Court may in its discretion issue a warrant, either with or without bail, for the arrest of such person and may make an order for the attachment of his property to such amount as it thinks fit, not exceeding the amount of the costs of attachment and the fine which may be imposed under Section 166.

Provided that no Court other than the Supreme Court shall make an order for the attachment of immovable property.

If witness appears, attachment may be withdrawn.

165. Where, at any time after the attachment of his property, such person appears and satisfies the Court

(*a*) that he did not, without lawful excuse, fail to comply with the summons or intentionally avoid service, and

(*b*) where he has failed to attend at the time and place named in a proclamation issued under the last preceding section, that he had no notice of such proclamation in time to attend,

the Court shall direct that the property be released from attachment and shall make such order as to the costs of the attachment as it thinks fit.

Procedure if witness fails to appear.

166. The Court may, where such person does not appear, or appears but fails so to satisfy the Court, impose upon him such fine not exceeding two hundred and fifty dollars as it thinks fit, having regard to his condition in life and all the circumstances of the case, and may order his property, or any part thereof, to be attached and sold, or if already attached under Section 164 to be sold, for the purpose of satisfying all costs of such attachment together with the amount of the said fine, if any.

Provided that, if the person whose attendance is required pays into Court the costs and fine as aforesaid, the Court shall direct that the property be released from attachment.

Mode of attachment.

167. The provisions with regard to the attachment and sale of property in execution of a decree shall, so far as they are applicable, be deemed to apply to any attachment and sale under this Chapter as if the person whose property is so attached were a judgment-debtor.

Court may of its own accord summon as witnesses strangers to suit.

168. Subject to the provisions of this Code as to attendance and appearance and to any law for the time being in force, where the Court at any time thinks it necessary to examine any person, other than a party to the suit, who is not called as a witness by a party

to the suit, the Court may, of its own motion, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession, on a day to be appointed, and may examine him as a witness or require him to produce such document.

Duty of persons summoned to give evidence or produce document.

169. Subject as last aforesaid, whoever is summoned to appear and give evidence in a suit shall attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document shall either attend to produce it, or cause it to be produced, at such time and place.

When they may depart.

170. (i) A person so summoned and attending shall, unless the Court otherwise directs, attend at each hearing until the suit has been disposed of.

(ii) On the application of either party and the payment through the Court of all necessary expenses, if any, the Court may require any person so summoned and attending to furnish security to attend at the next or any other hearing or until the suit is disposed of and, in default of his furnishing such security, may order him to be detained in the civil prison.

Application of Sections 164 to 167.

171. The provisions of Sections 164 to 167 shall, so far as they are applicable, be deemed to apply to any person who having attended in compliance with a summons departs without lawful excuse in contravention of Section 170.

Procedure where witness arrested cannot give evidence or produce document.

172. Where any person arrested under a warrant is brought before the Court in custody and cannot, owing to the absence of the parties or any of them, give the evidence or produce the document which he has been summoned to give or produce, the Court may require him to give reasonable bail or other security for his appearance at such time and place as it thinks fit, and, on such bail or security being given, may release him, and in default of his giving such bail or security may order him to be detained in the civil prison.

Persons residing at a distance.

173. No one shall be bound to attend in person to give evidence in Court unless he resides

(*a*) within the State in which the Court-house is situate ; or

(*b*) without such State but at a place less than fifty or (where there is railway or steamer communication or other established public conveyance for five-sixths of the distance between the place where he resides and the place where the Court is situate) less than two hundred miles distance from the Court-house.

Consequence of refusal of party to give evidence when called on by Court.

174. Where any party to a suit present in Court refuses, without lawful excuse, when required by the Court, to give evidence or to produce any document then and there in his possession or power, the Court may in its discretion either give judgment against him or make such order in relation to the suit as it thinks fit.

Provisions as to witnesses to apply to parties summoned.

175. Where any party to a suit is required to give evidence or to produce a document, the provisions as to witnesses shall apply to him so far as they are applicable.

Chapter XVII.

ADJOURNMENTS.

Court may grant time, and adjourn hearing.

176. (i) The Court may, if sufficient cause is shewn, at any stage of the suit grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit.

(ii) In every such case the Court shall fix a day for the further hearing of the suit, and may make such order as it thinks fit with respect to the costs occasioned by the adjournment.

Procedure if parties fail to appear on day fixed.

177. Where, on any day to which the hearing of the suit is adjourned, the parties or any of them fail to appear, the Court may proceed to dispose of the suit in one of the modes directed in that behalf by Chapter IX or make such other order as it thinks fit.

Court may proceed notwithstanding either party fails to produce evidence, etc.

178. Where any party to a suit to whom time has been granted fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit, for which time has been allowed, the Court may, notwithstanding such default, proceed to decide the suit forthwith.

Chapter XVIII.

HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

Right to begin.

179. The plaintiff has the right to begin unless the defendant admits the facts alleged by the plaintiff and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to begin.

Statement and production of evidence

180. (i) On the day fixed for the hearing of the suit or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence.

(ii) The other party shall then state his case and produce his evidence (if any) and may then address the Court generally on the whole case.

(iii) The party beginning may then reply generally on the whole case.

Evidence where several issues.

181. Where there are several issues, the burden of proving some of which lies on the other party, the party beginning may, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the other party. In the latter case the party beginning may produce evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on the evidence so produced by the party beginning; but the party beginning will then be entitled to reply generally on the whole case.

Witnesses to be examined in open Court.

182. The evidence of the witnesses in attendance shall be taken orally in open Court in the presence and under the personal direction and superintendence of the Judge.

183. In cases in which an appeal is allowed the evidence of each witness shall be taken down in writing in English by the Judge, not ordinarily in the form of question and answer but in that of a narrative. How evidence shall be taken in appealable cases.

184. The Court may, of its own motion or on the application of any party or his solicitor, take down any particular question and answer, or any objection to any question, if there appears to be any special reason for so doing. Any particular question and answer may be taken down.

185. Where any question put to a witness is objected to by a party or his solicitor and the Court allows the same to be put, the Judge shall take down the question, the answer, the objection, and the name of the person making it, together with the decision of the Court thereon. Questions objected to and allowed by Court.

186. The Court may record such remarks as it thinks material respecting the demeanour of any witness while under examination. Remarks on demeanour of witnesses.

187. In cases in which an appeal is not allowed it shall not be necessary to take down the evidence of the witnesses in writing at length ; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what he disposes. Memorandum of evidence in unappealable cases.

188. Where the Judge is unable to take down the evidence as required by Section 183 or to make a memorandum of it as required by Section 187, he shall cause the evidence to be taken down, or the memorandum to be made, as the case may be, from his dictation in open Court. Procedure where Judge unable to take down evidence or make memorandum thereof.

189. Where a Judge is prevented by death, transfer, or other cause from concluding the trial of a suit, his successor may deal with any evidence or memorandum taken down or made under the foregoing sections as if such evidence or memorandum had been taken down or made by him under the said sections and may proceed with the suit from the stage at which his predecessor left it. Power to deal with evidence taken down by another Judge.

190. (i) Where a witness is about to leave the jurisdiction of the Court, or other sufficient cause is shewn to the satisfaction of the Court, why his evidence should be taken immediately, the Court may, upon the application of any party or of the witness, at any time after the institution of the suit, take the evidence of such witness in manner hereinbefore provided. Power to examine witness immediately.

(ii) Where such evidence is not taken forthwith and in the presence of the parties, such notice as the Court thinks sufficient, of the day fixed for the examination, shall be given to the parties.

(iii) The evidence so taken shall be read over to the witness and, if he admits it to be correct, shall be signed by him and may then be read at any hearing of the suit.

191. The Court may at any stage of a suit recall any witness who has been examined and may (subject to the law of evidence for the time being in force) put such questions to him as the Court thinks fit. Court may recall and examine witness.

192. The Court may at any stage of a suit inspect any property or thing concerning which any question may arise. Power of Court to inspect.

Chapter XIX.

AFFIDAVITS.

Power to order any point to be proved by affidavit.

193. Any Court may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable.

Provided that, where it appears to the Court that either party *bonâ fide* desires the production of a witness for cross-examination and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit.

Power to order attendance of deponent for cross-examination.

194. Upon any application evidence may be given by affidavit, but the Court may, at the instance of either party, order the attendance for cross-examination of the deponent.

Such attendance shall be in Court, unless the deponent is exempted from personal appearance in Court or the Court otherwise directs.

Matters to which affidavits shall be confined.

195. (i) Affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted, provided that the grounds thereof are stated.

(ii) The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter, or copies of or extracts from documents, shall (unless the Court otherwise directs) be paid by the party filing the same.

Oath or affirmation of deponent, by whom to be administered.

196. (i) Any affidavit may be used under this Code if it is sworn or affirmed

(*a*) in the Federated Malay States, before a Magistrate or before a Registrar of the Supreme Court ;

(*b*) in England, Scotland, Ireland, or the Channel Islands, or in any Colony, island, or place under the dominion or jurisdiction of His Britannic Majesty or in any of the States in the Malay Peninsula (other than the Federated Malay States) or in Borneo under the protection of His said Majesty, before any Judge, Court, notary-public, or person lawfully authorized to administer oaths or affirmations ;

(*c*) in any other place, before any of His Britannic Majesty's Consuls or Vice-Consuls.

(ii) The Judges and other officers of a Court shall take judicial notice of the seal or signature, as the case may be, of any such Judge, Court, notary-public, person, Consul, or Vice-Consul attached, appended, or subscribed to any such affidavit.

Chapter XX.

JUDGMENT AND DECREE.

Judgment when pronounced.

197. The Court, after the case has been heard, shall pronounce judgment in open Court either at once or on some future day, of which due notice shall be given to the parties or their solicitors.

198. A Judge may pronounce a judgment written and signed by his predecessor but not pronounced. Power to pronounce judgment written by Judge's predecessor.

199. The judgment shall be written in English. Language of judgment.

200. The judgment shall be dated and signed by the Judge in open Court at the time of pronouncing it and shall not be altered or added to, save to correct verbal errors or to supply some accidental defect not affecting a material part of the case, or on review. Judgment to be dated and signed.

201. The judgments of Courts inferior to the Supreme Court need not contain more than the points for determination and the decision thereupon ; provided that on the application of any party who is dissatisfied with any judgment of a Lower Civil Court within the time limited by Chapter XLVI for appealing the Magistrate shall certify in writing the grounds of his judgment and deliver such certificate to the applicant. Judgments of inferior Courts.

202. In suits in which issues have been framed the Court shall state its finding or decision, with the reasons therefor, upon each separate issue, unless the finding upon any one or more of the issues is sufficient for the decision of the suit. Court to state its decision on each issue.

203. (i) The decree shall agree with the judgment ; it shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, and shall specify clearly the relief granted or other determination of the suit. Contents of decree.

(ii) The decree shall also state the amount of costs incurred in the suit, and by whom or out of what property and in what proportions such costs are to be paid.

(iii) If the decree is found to be at variance with the judgment, or if any clerical or arithmetical error is found in the decree, the Court shall, of its own motion or on that of any of the parties, amend the decree so as to bring it into conformity with the judgment or to correct such error.

Provided that reasonable notice has been given to the parties or their solicitors of the proposed amendment.

204. The decree shall bear date the day on which the judgment was pronounced ; and, when the Judge has satisfied himself that the decree has been drawn up in accordance with the judgment, the Registrar shall sign the decree. Date of decree.

205. Where the subject-matter of the suit is immovable property, the decree shall contain a description of such property sufficient to identify the same, and where such property can be identified by boundaries or by numbers in a record of settlement or survey, the decree shall specify such boundaries or numbers. Decree for recovery of immovable property.

206. Where the suit is for movable property and the decree is for the delivery of such property, the decree shall also state the amount of money to be paid as an alternative if delivery cannot be had. Decree for delivery of movable property.

207. (i) Where and in so far as a decree is for the payment of money, the Court may in the decree order interest at such rate, not Interest.

exceeding eighteen per cent. per annum, as the Court deems reasonable to be paid on the principal sum adjudged from the date of the suit to the date of the decree, in addition to any interest, which shall in no case exceed eighteen per cent. per annum, adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate as the Court deems reasonable, not exceeding eight per cent. per annum, on the aggregate sum so adjudged from the date of the decree to the date of payment or to such earlier date as the Court thinks fit.

(ii) Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie.

Decree may direct payment by instalments.

208. (i) Where and in so far as a decree is for the payment of money, the Court may for any sufficient reason at the time of passing the decree order that payment of the amount decreed shall be postponed or shall be made by instalments, with or without interest, notwithstanding anything contained in the contract (if any) under which the money is payable.

(ii) After the passing of any such decree the Court may, on the application of the judgment-debtor and with the consent of the decree-holder, order that payment of the amount decreed shall be postponed or shall be made by instalments on such terms as to the payment of interest, the attachment of the property of the judgment-debtor, or the taking of security from him, or otherwise, as it thinks fit.

In suits for land Court may decree payment of mesne profits with interest.

209. Where a suit is for the recovery of possession of immovable property yielding rent or other profits, the Court may provide in the decree for the payment of rent or mesne profits in respect of such property from the institution of the suit until the delivery of possession to the party in whose favour the decree is made, or until the expiration of three years from the date of the decree (whichever event first occurs), with interest thereupon at such rate as the Court thinks fit.

Court may determine amount of mesne profits prior to suit, or may reserve enquiry.

210. Where a suit is for the recovery of possession of immovable property and for mesne profits which have accrued on the property during a period prior to the institution of the suit, and the amount of such profits is disputed, the Court may either determine the amount of the decree itself or may pass a decree for the property and direct an enquiry into the amount of mesne profits and dispose of the same on further orders.

Administration suit.

211. (i) Where a suit is for an account of any property and for its due administration under the decree of the Court, the Court, before making the decree, shall order such accounts and enquiries to be taken and made, and give such other directions, as it thinks fit.

(ii) In the administration by the Court of the property of any person who dies after this Code comes into force, if such property proves to be insufficient for the payment in full of his debts and liabilities, the same rules shall be observed as to preferential claims and as to the respective rights of secured and unsecured creditors

and as to debts and liabilities provable as may be in force for the time being with respect to the estates of judgment-debtors declared insolvent or adjudicated bankrupt ; and all persons who in any such case would be entitled to be paid out of such property may come in under the decree for its administration and make such claims against the same as they may, respectively, be entitled to by virtue of this Code.

Suits for dissolution of partnership.

212. Where a suit is for the dissolution of a partnership or the taking of partnership accounts, the Court, before making its decree, may pass an order declaring the proportionate shares of the parties, fixing the day on which the partnership shall stand dissolved or be deemed to have been dissolved, and directing such accounts to be taken and other acts to be done as it thinks fit.

Suit for account between principal and agent

213. In a suit for an account of pecuniary transactions between a principal and agent, and in any other suit not hereinbefore provided for, where it is necessary, in order to ascertain the amount of money due to or from any party, that an account should be taken, the Court shall, before making its decree, pass an order directing such accounts to be taken as it thinks fit.

Decree where set-off is allowed.

214. (i) Where the defendant has been allowed a set-off against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which appears to be due to either party.

(ii) The decree of the Court, with respect to any sum awarded to the defendant, shall have the same effect, and be subject to the same rules in respect of appeal or otherwise, as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

(iii) The provisions of this section shall apply whether the set-off is admissible under Section 88 or otherwise.

Certified copies of decree to be furnished.

215. Certified copies of the decree shall be furnished to the parties on application to the Court and at their expense.

Chapter XXI.

COSTS.

Costs of applications.

216. When disposing of any application under this Code, the Court may give to either party the costs of such application or may reserve the consideration of such costs for any future stage of the proceedings.

Judgment to direct by whom costs to be paid.

217. The judgment shall direct by whom or out of what property the costs of each party are to be paid, and whether in whole or in what part or proportion.

Power of Court as to costs.

218. (i) The Court shall have full power to give and apportion costs of every application and suit in such manner as it thinks fit, and the fact that the Court has no jurisdiction to hear the application or try the suit is no bar to the exercise of such power.

(ii) Where the Court directs that the costs of any application or suit shall not follow the event, the Court shall state its reasons in writing.

(iii) Every order relating to costs made under this Code and not forming part of a decree may be executed as if it were a decree for the payment of money.

Costs may be set-off against sum admitted or found to be due.

219. The Court may direct that the costs payable to one party by another shall be set-off against any sum which is admitted or is found in the suit to be due from the former to the latter.

Interest on costs. Payment of costs out of subject-matter.

220. The Court may give interest on costs at any rate not exceeding eight per cent. per annum, and may direct that costs, with or without interest, be paid out of, or charged upon, the subject-matter of the suit.

Chapter XXII.

EXECUTION OF DECREES.

PAYMENT UNDER DECREE.

Modes of paying money under decree.

221. All money payable under a decree shall be paid as follows—namely,

(*a*) into the Court whose duty it is to execute the decree ; or

(*b*) out of Court to the decree-holder ; or

(*c*) otherwise as the Court which passed the decree directs.

Agreement to give time to judgment-debtor.

222. (i) Every agreement to give time for the satisfaction of a judgment-debt shall be void unless it is made for consideration and with the sanction of the Court which passed the decree and such Court deems the consideration to be under the circumstances reasonable.

(ii) Every agreement for the satisfaction of a judgment-debt which provides for the payment, directly or indirectly, of any sum in excess of the sum due or to accrue due under the decree shall be void unless it is made with the like sanction.

(iii) Any sum paid in contravention of the provisions of this section shall be applied to the satisfaction of the judgment-debt ; and the surplus, if any, shall be recoverable by the judgment-debtor.

Payment to decree-holder.

223. (i) Where any money payable under a decree is paid out of Court, or the decree is otherwise adjusted in whole or in part to the satisfaction of the decree-holder, or where any payment is made in pursuance of an agreement of the nature mentioned in Section 222, the decree-holder shall certify such payment or adjustment to the Court whose duty it is to execute the decree and the Court shall record the same accordingly.

(ii) The judgment-debtor also may inform the Court of such payment or adjustment and apply to the Court to issue a notice to the decree-holder to shew cause, on a day to be fixed by the Court, why such payment or adjustment should not be recorded ; and if, after due service of such notice, the decree-holder fails to appear on the day fixed, or having appeared fails to shew cause why the payment or adjustment should not be recorded, the Court shall record the same accordingly.

(iii) A payment or adjustment which has not been certified or recorded as aforesaid shall not be recognized as a payment or adjustment of the decree by any Court executing the decree.

COURTS BY WHICH DECREES MAY BE EXECUTED.

Court by which decree may be executed.

224. A decree may be executed either by the Court which passed it or by the Court to which it is sent for execution under the provisions hereinafter contained.

Transfer of decrees within the Federated Malay States for execution.

225. (i) The Court which passed a decree may, on the application of the decree-holder, send it for execution to another Court in the Federated Malay States

(*a*) if the person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other Court ; or

(*b*) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other Court ; or

(*c*) if application is made for execution of the decree by sale of immovable property and the Court which passed the decree is not empowered to order sale of immovable property in execution of a decree ; or

(*d*) if the decree directs the sale or delivery of immovable property situate outside the local limits of the jurisdiction of the Court which passed it ; or

(*e*) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

(ii) The Court which passed a decree may of its own motion send it for execution to any Court subordinate thereto.

(iii) The Court to which a decree is sent for execution shall certify to the Court which passed it the fact of such execution or, where the former Court fails to execute the same, the circumstances attending such failure.

Documents to be sent when decree transferred within the Federated Malay States for execution.

226. The Court sending a decree for execution under the last preceding section shall send

(*a*) a certified copy of the decree ;

(*b*) a certificate setting forth that satisfaction of the decree has not been obtained by execution within the jurisdiction of the Court by which it was passed, or, where the decree has been executed in part, the extent to which satisfaction has been obtained and what part of the decree remains unexecuted ; and

(*c*) a certified copy of any order for the execution of the decree, or, if no such order has been made, a certificate to that effect.

Court receiving copies of decree, etc., to file same without proof.

227. The Court to which a decree is so sent shall cause such copies and certificates to be filed, without any further proof of the decree or order for execution, or of the copies thereof, unless

the Court, for any special reasons to be recorded under the hand of the Judge, requires such proof.

Execution of decree or order by Court to which it is sent.

228. Where such copies are so filed, the decree or order may be executed by the Court to which it is sent.

Powers of Court in executing transferred decree.

229. The Court executing a decree sent to it under Section 225 shall have the same powers in executing such decree as if it had been passed by itself. All persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if it had passed the decree. And its orders in executing such decree shall be subject to the same rules in respect of appeal as if the decree had been passed by itself.

Transfer of decrees to and from Courts outside the Federated Malay States for execution.

230. When the High Commissioner has, by notification in the *Gazette*, declared that reciprocal arrangements have been entered into with regard to any Court in British India or in the Colony of the Straits Settlements or in any other British Colony or in any Protected Malay State not being one of the Federated Malay States for the transfer of decrees to or from such Court for execution, the Court which passed a decree may, subject to the terms of the said notification, on the application of the decree-holder send it to such Court for execution ; and every Court shall, subject as aforesaid, execute any decree which may be sent to it by such Court for that purpose.

Documents to be sent when decree transferred to Court outside Federated Malay States for execution.

231. The Court sending a decree for execution under the last preceding section shall send

(*a*) a certified copy of the decree ;

(*b*) a certificate setting forth that satisfaction of the decree has not been obtained by execution, or, where the decree has been executed in part, the extent to which satisfaction has been obtained, and what part of the decree remains unexecuted ;

(*c*) a certified copy of any order for the execution of the decree, and, if no such order has been made, a certificate under the seal of the Court to that effect ; and

(*d*) security for the costs of execution.

Procedure of Court to which decree is transferred from Court outside Federated Malay States for execution.

232. (i) A Court receiving such copies and certificate from any Court with regard to which reciprocal arrangements have been notified under Section 230 shall, if competent to execute decrees of such last mentioned Court, cause such copies and certificate to be filed.

(ii) The Court to which in accordance with the terms of a notification under Section 230 a decree is sent for execution shall have the same powers in executing such decree as if it had been passed by itself, and all persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if it had passed the decree.

(iii) The Court to which in accordance with the terms of a notification under Section 230 a decree is sent for execution shall certify to the Court which sent it the fact of such execution or, where the former Court fails to execute the same, the circumstances attending such failure.

APPLICATION FOR EXECUTION.

Application for execution.

233. Where the holder of a decree desires to execute it, he shall apply to the Court which passed the decree or to the officer, if any, appointed in this behalf, or if the decree has been sent under the provisions hereinbefore contained to another Court then to such Court or to the proper officer thereof.

Execution barred in certain cases.

234. (i) Where an application to execute a decree for the payment of money or delivery of other property has been made and granted, no order for the execution of the same decree shall be made upon any fresh application presented after the expiration of twelve years from any of the following dates—namely,

(*a*) the date of the decree sought to be executed or of the decree (if any) on appeal affirming the same, or

(*b*) where the decree or any subsequent order directs any payment of money, or the delivery of any property, to be made at a certain date or at recurring periods—the date of the default in making the payment or delivery in respect of which the applicant seeks to execute the decree.

(ii) Nothing in this section shall preclude the Court from ordering the execution of a decree upon an application presented after the expiration of the said term of twelve years where the judgment-debtor has, by fraud or force or by absence beyond the jurisdiction of the Court, prevented the execution of the decree at some time within twelve years immediately before the date of the application.

Contents of application for execution of decree.

235. The application for the execution of a decree shall be in writing, signed and verified by the applicant or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case, and shall contain in a tabular form the following particulars—namely,

(*a*) the number of the suit ;

(*b*) the names of the parties ;

(*c*) the date of the decree ;

(*d*) whether any appeal has been preferred from the decree ;

(*e*) whether any and (if any) what payment or other adjustment of the matter in dispute has been made between the parties subsequently to the decree ;

(*f*) whether any and (if any) what previous applications have been made for execution of the decree, the dates of such applications and their results ;

(*g*) the amount, with the interest (if any), due upon the decree, or other relief granted thereby, together with particulars of any cross-decree, whether passed before or after the date of the decree sought to be executed ;

(*h*) the amount of costs (if any) awarded ;

(*i*) the name of the person against whom the execution of the decree is sought ; and

(*j*) the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, or by the attachment of the judgment-debtor's property, or otherwise, as the nature of the relief sought may require.

Application for attachment of movable property not in judgment-debtor's possession.

236. Where an application is made for the attachment of any movable property belonging to a judgment-debtor but not in his possession, the decree-holder shall annex to the application an inventory of the property to be attached containing a reasonably accurate description of the same and stating the name and address of the person or persons in whose possession such property is alleged to be.

Particulars required where application is for attachment of immovable property.

237. Where an application is made for the attachment of any immovable property belonging to a judgment-debtor, it shall contain at the foot a description of the property, sufficient to identify it, and also a specification of the judgment-debtor's share or interest therein to the best of the belief of the applicant and so far as he has been able to ascertain the same.

Where application must be accompanied by extract from Registry of Titles or Land Office register.

238. Where an application is made for the attachment of any land which is registered in any Registry of Titles or Land Office, the application for attachment shall be accompanied by an authenticated extract from the register of such Registry or Land Office, specifying the persons registered as proprietors of, or as possessing any transferable interest in, the land, or as liable to pay revenue for such land, and the shares of the persons so registered.

Application by joint decree-holder.

239. (i) Where a decree has been passed jointly in favour of more persons than one, any one or more of such persons, or his or their representatives, may, unless the decree imposes any condition to the contrary, apply for the execution of the whole decree for the benefit of them all, or, where any of them has died, for the benefit of the survivors and the legal representative of the deceased.

(ii) Where the Court sees sufficient cause for allowing the decree to be executed on an application so made, it shall make such order as it deems necessary for protecting the interests of the persons who have not joined in the application.

Application by transferee of decree.

240. Where a decree or, if a decree has been passed jointly in favour of two or more persons, the interest of any decree-holder in the decree is transferred by assignment in writing or by operation of law, the transferee may apply for execution of the decree to the Court which passed it ; and the decree may be executed in the same manner and subject to the same conditions as if the application were made by such decree-holder.

Provided as follows :

(*a*) Where the decree, or such interest as aforesaid, has been transferred by assignment, notice in writing of such application shall be given to the transferor and to the judgment-debtor, and the decree shall not be executed until the Court has heard their objections (if any) to such execution : provided that the Court may at its discretion dispense with service of such notice on the transferor ;

(*b*) Where a decree for money against two or more persons has been transferred to one of them, it shall not be executed against the other or others.

Transferee to hold subject to equities enforceable against original holder.

241. Every transferee of a decree shall hold the same subject to the equities (if any) which the judgment-debtor might have enforced against the original decree-holder.

If judgment-debtor die before satisfaction, application may be made against his representative.

242. (i) Where a judgment-debtor dies before the decree has been fully satisfied, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

(ii) Where the decree is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of ; and for the purpose of ascertaining such liability the Court executing the decree may, of its own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as it thinks fit.

Procedure on receiving application for execution of decree.

243. (i) The Court, on receiving an application for the execution of a decree, shall ascertain whether such of the requirements of Sections 235, 236, 237, and 238 as may be applicable to the case have been complied with, and if they have not been complied with the Court may reject the application, or may allow the defect to be remedied then and there or within a time fixed by the Court. If the defect be not so remedied, the application shall be rejected.

(ii) Every amendment made under this section shall be signed or initialled by the Judge or the Registrar.

(iii) When the application is admitted, the Court shall enter in the proper register a note of the application and the date on which it was made, and shall, subject to the provisions hereinafter contained, order execution of the decree according to the nature of the application :

Provided that, in the case of a decree for the payment of money, the value of the property attached shall, as nearly as may be, correspond with the amount due under the decree.

Execution in case of cross-decrees.

244. (i) Where applications are made to a Court for the execution of cross-decrees in separate suits between the same parties for the payment of money which are capable of execution at the same time by such Court, then

(*a*) if the two sums are equal, satisfaction shall be entered upon both decrees ;

(*b*) if the two sums are unequal, execution may be taken out only by the holder of the decree for the larger sum and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered upon the decree for the larger sum as well as satisfaction upon the decree for the smaller sum.

(ii) This section applies where either party is an assignee of one of the decrees and as well in respect of judgment-debts due by the original assignor as in respect of judgment-debts due by the assignee himself.

(iii) This section does not apply unless the decree-holder in one of the suits in which the decrees have been made is the judgment-debtor in the other and each party fills the same character in both suits, and the sums due under the decrees are definite.

(iv) The holder of a decree passed against several persons jointly and severally may treat it as a cross-decree in relation to a decree passed against him singly in favour of one or more of such persons.

Illustrations.

(*a*) A holds a decree against B for $1,000. B holds a decree against A for the payment of $1,000 in case A fails to deliver certain goods at a future day. B cannot treat his decree as a cross-decree under this section.

(*b*) A and B, co-plaintiffs, obtain a decree for $1,000 against C, and C obtains a decree for $1,000 against B. C cannot treat his decree as a cross-decree under this section.

(*c*) A obtains a decree against B for $1,000. C, who is a trustee for B, obtains a decree on behalf of B against A for $1,000. B cannot treat C's decree as a cross-decree under this section.

(*d*) A, B, C, D, and E are jointly and severally liable for $1,000 under a decree obtained by F. A obtains a decree for $100 against F singly and applies for execution to the Court in which the joint-decree is being executed. F may treat his joint-decree as a cross-decree under this section.

Execution in case of cross claims under same decree.

245. Where application is made to a Court for the execution of a decree under which two parties are entitled to recover sums of money from each other, then

(*a*) if the two sums are equal, satisfaction for both shall be entered upon the decree ;

(*b*) if the two sums are unequal, execution may be taken out only by the party entitled to the larger sum and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered upon the decree.

Notice to shew cause why decree should not be executed.

246. Where an application for execution is made

(*a*) more than one year after the date of the decree, or

(*b*) against the legal representative of a party to the decree,

the Court shall issue a notice to the person against whom execution is applied for, requiring him to shew cause, within a period to be fixed by the Court, why the decree should not be executed against him ; provided that no such notice shall be necessary in consequence of more than one year having elapsed between the date of the decree and the application for execution if the application is made within one year from the date of any decree passed on appeal from the decree sought to be executed or of the last order against the party against whom execution is applied for, made on any previous application for execution, or in consequence of the application being against the legal representative of the judgment-debtor if upon a previous application for execution against the same person the Court has ordered execution to issue against him.

Explanation.—In this section the phrase "the Court" means the Court by which the decree was passed, unless the decree has been sent to another Court for execution, in which case it means such other Court.

Procedure after issue of notice.

247. (i) Where the person to whom notice is issued under the last preceding section does not appear, or does not shew cause to the satisfaction of the Court why the decree should not be executed, the Court shall order the decree to be executed.

(ii) Where such person offers any objection to the execution of the decree, the Court shall consider such objection and make such order as it thinks fit. . .

WARRANT FOR EXECUTION.

Warrant for execution.

248. (i) When the preliminary measures (if any) required by the foregoing provisions have been taken, the Court shall, unless it sees cause to the contrary, issue its warrant for the execution of the decree.

(ii) Such warrant shall be dated the day on which it is issued, and shall be signed by the chief ministerial officer of the Court and sealed with the seal of the Court and delivered to the proper officer to be executed.

(iii) In such warrant a day shall be specified on or before which it shall be executed.

Endorsement on warrant.

249. The proper officer shall endorse on the warrant the day on, and the manner in, which it was executed, or, if it was not executed, the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

STAY OF EXECUTION.

When Court may stay execution.

250. (i) The Court to which a decree has been sent for execution under this Chapter shall, upon sufficient cause being shewn, stay the execution of such decree for a reasonable time, to enable the judgment-debtor to apply to the Court by which the decree was passed, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay execution, or for any other order relating to the decree or execution which might have been made by such Court of first instance or appellate Court if execution had been issued thereby, or if application for execution had been made thereto.

(ii) Where the property of the judgment-debtor has been seized under an execution, the Court which issued the execution may order the restitution of such property pending the result of the application for such order.

(iii) Before making an order to stay execution or for the restitution of property the Court may require such security from, or impose such conditions upon, the judgment-debtor as it thinks fit.

Liability of judgment-debtor's property discharged to be retaken.

251. No order of restitution under Section 250 of the property of a judgment-debtor shall prevent it from being retaken in execution of the decree sent for execution.

Order of Court which passed decree or of appellate Court to be binding upon Court applied to.

252. Any order of the Court by which the decree was passed, or of such appellate Court as aforesaid, in relation to the execution of such decree shall be binding upon the Court to which the decree was sent for execution.

Stay of execution pending suit between decree-holder and judgment-debtor.

253. Where a suit is pending in any Court against the holder of a decree of such Court, on the part of the person against whom the decree was passed, the Court may, on such terms as to security or otherwise as it thinks fit, stay execution of the decree until the pending suit has been decided.

QUESTIONS FOR COURT EXECUTING DECREE.

Questions to be determined by Court executing decree.

254. (i) The following questions shall be determined by order of the Court executing a decree and not by separate suit—namely,

(*a*) questions regarding the amount of any mesne profits as to which the decree has directed enquiry ;

(*b*) questions regarding the amount of any mesne profits or interest which the decree has made payable in respect of the subject-matter of a suit, between the date of its institution and the execution of the decree, or the expiration of three years from the date of the decree ;

(*c*) any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge, or satisfaction of the decree or to the stay of execution thereof.

(ii) Nothing in this section shall be deemed to bar a separate suit for mesne profits accruing between the institution of the first suit and the execution of the decree therein, where such profits are not dealt with by such decree.

(iii) Where a question arises as to who is the representative of a party for the purposes of this section, the Court may either stay execution of the decree until the question has been determined by a separate suit or itself determine the question by an order under this section.

MODE OF EXECUTION.

Decree against representative of deceased for money to be paid out of deceased's property.

255. (i) Where a decree is passed against a party as the legal representative of a deceased person, and the decree is for the payment of money out of the property of the deceased, it may be executed by the attachment and sale of any such property.

(ii) Where no such property remains in the possession of the judgment-debtor and he fails to satisfy the Court that he has duly applied such property of the deceased as is proved to have come into his possession, the decree may be executed against the judgment-debtor, to the extent of the property in respect of which he has failed so to satisfy the Court, in the same manner as if the decree had been against him personally.

Decree where performance guaranteed by surety.

256. Where a person has, before the passing of a decree in a suit, become liable as surety for the performance of the same or of any part thereof, the decree may be executed against him, to the extent to which he has rendered himself liable, in the same manner as a decree may be executed against a defendant.

Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety.

257. Every decree or order for the payment of money, including a decree for the payment of money as the alternative to some other relief, may be enforced by the attachment and sale of the judgment-debtor's property in manner hereinafter provided. Decree for payment of money.

258. Where a decree is for mesne profits or any other matter the amount of which in money is to be subsequently determined, the property of the judgment-debtor may, before the amount due from him under the decree has been ascertained, be attached as in the case of an ordinary decree for the payment of money. Decree for mesne profits or other matter, amount of which to be subsequently ascertained.

259. Where a decree is for the payment of money and the amount decreed does not exceed the sum of one thousand dollars, the Court may, when passing the decree, on the oral application of the decree-holder, order immediate execution thereof by the issue of a warrant directed against the judgment-debtor's movable property within the local limits of the jurisdiction of the Court. Power to direct immediate execution of decree for money not exceeding one thousand dollars.

260. (i) Where a decree is for any specific movable, or for any share in a specific movable, it may be executed by the seizure, if practicable, of the movable or share and by the delivery thereof to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, or by the attachment of the property of the judgment-debtor. Decree for specific movables.

(ii) Where any attachment under this section has remained in force for six weeks, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold, and out of the proceeds the Court may award to the decree-holder in cases where any amount has been fixed under Section 206 such amount, and in other cases such compensation as it thinks fit, and shall pay the balance (if any) to the judgment-debtor on his application.

(iii) Where the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or where at the end of six weeks from the date of the attachment no application to have the property sold has been made, or any such application made has been refused, the attachment shall cease.

261. (i) Where the party against whom a decree or injunction for the specific performance of a contract or for the performance of or abstention from any particular act has been made has had an opportunity of obeying the decree or injunction and has wilfully failed to obey it, the decree or injunction may be enforced by his detention in the civil prison or by the attachment of his property or by both. Decree for specific performance; injunction.

(ii) Where the party against whom such a decree or injunction as aforesaid has been passed is a corporation, the decree or injunction may be enforced by the attachment of the property of the corporation or, with the leave of the Court, by the detention in the civil prison of the directors or other principal officers thereof or by both attachment and detention.

(iii) Where any attachment under this section has remained in force for one year, if the judgment-debtor has not obeyed the decree or injunction and the decree-holder has applied to have the attached

property sold, the property may be sold ; and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and may pay the balance (if any) to the judgment-debtor on his application.

(iv) Where the judgment-debtor has obeyed the decree or injunction and paid all costs of executing the same which he is bound to pay, or where at the end of one year from the date of the attachment no application to have the property sold has been made and granted, the attachment shall cease.

(v) Where such a decree or injunction as aforesaid has not been obeyed, the Court may, in lieu of or in addition to all or any of the processes aforesaid, direct that the act required to be done may be done so far as practicable by the decree-holder or some other person appointed by the Court, at the cost of the judgment-debtor, and upon the act being done the expenses incurred may be ascertained in such manner as the Court may direct and may be recovered as if they were included in the decree or injunction.

Decree for execution of document, or endorsement of negotiable instrument.

262. (i) Where a decree is for the execution of a document or for the endorsement of a negotiable instrument and the judgment-debtor neglects or refuses to obey the decree, the decree-holder may prepare a draft of the document or endorsement in accordance with the terms of the decree and deliver the same to the Court.

(ii) The Court shall thereupon cause the draft to be served on the judgment-debtor in manner hereinbefore provided for serving a summons, together with a notice in writing requiring his objections (if any) thereto to be made within such time, to be specified in the notice, as the Court fixes in this behalf.

(iii) Where the judgment-debtor objects to the draft, his objections shall be stated in writing within such time, and the Court shall make such order approving or altering the draft as it thinks fit.

(iv) The decree-holder shall deliver to the Court a copy of the draft with such alterations (if any) as the Court may have directed upon properly stamped paper if a stamp is required by law, and the Court shall execute the document so delivered.

(v) The execution of a document, or the endorsement of a negotiable instrument, by the Court under this section may be in the following form : " C. D., Registrar of the Court of....., for A. B., in a suit by E. F., against A. B.," or in such other form as the Judicial Commissioners may from time to time prescribe, and shall have the same effect as the execution of the document or the endorsement of the negotiable instrument by the party ordered to execute or endorse the same.

Decree for immovable property.

263. Where a decree is for the delivery of any immovable property, it may be executed by delivering possession of the property to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, and, if necessary, by removing any person bound by the decree who refuses to vacate the property.

Delivery of immovable property when in occupancy of tenant

264. Where a decree is for the delivery of any immovable property in the occupancy of a tenant or other person entitled to

occupy the same and not bound by the decree to relinquish such occupancy, the Court shall order delivery to be made by affixing a copy of the warrant in some conspicuous place on the property and proclaiming to the occupant by beat of gong, or in such other mode as is customary, at some convenient place the substance of the decree in regard to the property.

Provided that if the occupant can be found, a notice in writing containing such substance shall be served upon him, and in such case no proclamation need be made.

ATTACHMENT OF PROPERTY.

Property liable to attachment and sale in execution of decree.

265. (i) The following property is liable to attachment and sale in execution of a decree—namely, lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, promissory notes, Government securities, bonds or other securities for money, debts, shares in a corporation, and, except as hereinafter mentioned, all other saleable property, movable or immovable, belonging to the judgment-debtor or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, and whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf.

Provided that the following particulars shall not be liable to such attachment or sale—namely,

(*a*) the necessary wearing apparel, cooking vessels, beds and bedding of the judgment-debtor, his wife and children ;

(*b*) tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain or produce as may in the opinion of the Court be necessary to enable him to earn his livelihood as such ;

(*c*) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist and occupied by him ;

(*d*) books of account ;

(*e*) mere rights to sue for damages ;

(*f*) any right of personal service ;

(*g*) pensions, allowances, and gratuities, allowed to military and civil ex-servants of Government, and political pensions ;

(*h*) the salary of a public officer or of any servant of a Railway Administration or Sanitary Board to the extent of

(1) the whole of the salary, where the salary does not exceed twenty dollars monthly ;

(2) twenty dollars monthly, where the salary exceeds twenty dollars and does not exceed forty dollars monthly ; and

(3) one moiety of the salary in any other case.

Provided that no salary of a public officer or servant of a Railway Administration or Sanitary Board shall be attached in any State unless and until the written consent of the Resident of such State, or of the Secretary to such Resident, to such attachment shall have been produced in Court.

(*i*) the pay and allowances of Malay States Guides and Police ;

(*j*) the wages of labourers and domestic servants ;

(*k*) an expectancy of succession by survivorship or other merely contingent or possible right or interest ;

(*l*) a right to future maintenance ;

(*m*) where the judgment-debtor is a person liable for the payment of land revenue, any movable property which under any law applicable to him is exempt from sale for the recovery of an arrear of such revenue.

Explanation.—The particulars mentioned in clauses (*g*), (*h*), (*i*), and (*j*) are exempt from attachment or sale whether before or after they are actually payable.

(ii) Nothing in this section shall be deemed to exempt houses and other buildings (with the materials and the sites thereof and the lands immediately appurtenant thereto and necessary for their enjoyment) from attachment or sale in execution of decrees for rent of any such house, building, site, or land.

Examination of judgment-debtor as to his property.

266. Where a decree is for the payment of money, the decree-holder may apply to the Court for an order that

(*a*) the judgment-debtor, or

(*b*) in the case of a corporation, any officer thereof, or

(*c*) any other person

be orally examined as to whether any or what debts are owing to the judgment-debtor and whether the judgment-debtor has any and what other property or means of satisfying the decree ; and the Court may make an order for the attendance and examination of such judgment-debtor or officer or other person and for the production of any books or documents.

Attachment of movable property in possession of judgment-debtor.

267. Where the property to be attached is movable property in the possession of the judgment-debtor, the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates and shall be responsible for the due custody thereof.

Provided that where the property seized is subject to speedy and natural decay, or where the expense of keeping it in custody will exceed its value, the proper officer may sell it at once.

Rules for maintenance of property under attachment.

268. The Resident of a State may, with the approval of the Chief Secretary, from time to time by notification in the *Gazette* make rules for the maintenance and custody, while under attachment, of live-stock and other movable property, and the officer attaching property in such State under this section shall, notwithstanding the provisions of the last preceding section, act in accordance with such rules.

Attachment of debt, share and other property not in possession of judgment-debtor.

269. (i) In the case of (*a*) a debt not secured by a negotiable instrument, (*b*) a share in the capital of a corporation, (*c*) other movable property not in the possession of the judgment-debtor, except property deposited in, or in the custody of, any Court, the attachment shall be made by a written order prohibiting

(*a*) in the case of the debt, the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Court ;

(*b*) in the case of the share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon ;

(*c*) in the case of the other movable property, except as aforesaid, the person in possession of the same from giving it over to the judgment-debtor.

(ii) A copy of such order shall be affixed on some conspicuous part of the Court-house, and another copy of the same shall be sent, in the case of the debt, to the debtor, in the case of the share, to the proper officer of the corporation, and in the case of the other movable property, except as aforesaid, to the person in possession of the same.

(iii) A debtor prohibited under clause (*a*) of sub-section (i) may pay the amount of his debt into Court and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

Attachment of salary of public officer.

270. (i) Where the property to be attached is the salary of a public officer or of the servant of a Railway Administration or Sanitary Board, the attachment shall be made by a written order requiring the officer whose duty it is to disburse the salary to withhold every month such portion as the Court may direct, until the further orders of the Court.

(ii) A copy of every such order and of the written consent of the Resident, or of the Secretary to the Resident, to the attachment shall be affixed on a conspicuous part of the Court-house and shall be served on the officer so required.

(iii) Every such officer may from time to time pay into Court any portion so withheld, and such payment shall discharge the Government or the Railway Administration or Sanitary Board, as the case may be, as effectually as payment to the judgment-debtor.

Attachment of negotiable instruments.

271. Where the property to be attached is a negotiable instrument not deposited in a Court, nor in the custody of a public officer, the attachment shall be made by actual seizure, and the instrument shall be brought into Court and held subject to the further orders of the Court.

Entry into dwelling-house.

272. (i) No person executing any process under this Code directing or authorizing seizure of movable property shall enter any dwelling-house after sunset and before sunrise.

(ii) No outer door of a dwelling-house shall be broken open unless such dwelling-house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto ; but when the

person executing any such process has duly gained access to any dwelling-house, he may unfasten, break open, or otherwise open the door of any room in which he has reason to believe any such property to be.

Attachment of property in custody of Court or public officer.

273. Where the property to be attached is in the custody of any Court or public officer, the attachment shall be made by a notice to such Court or officer requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Court from which the notice issues.

Provided that, where such property is in the custody of a Court, any question of title or priority arising between the decree-holder and any other person, not being the judgment-debtor, claiming to be interested in such property by virtue of any assignment, attachment, or otherwise shall be determined by such Court.

Provided, further, that property which in any State, not being in the custody of a Court, is in the custody or under the control of any public officer in his official capacity shall not be attached unless and until the written consent of the Resident of such State, or of the Secretary to such Resident, to such attachment shall have been produced in Court.

Attachment of decree.

274. (i) Where the property to be attached is a decree for the payment of money passed by the Court which passed the decree sought to be executed, the attachment shall be made by an order of the Court directing the proceeds of the former decree to be applied in satisfaction of the latter decree.

(ii) Where the property to be attached is a decree for the payment of money passed by any other Court, the attachment shall be made by a notice in writing to such Court by the Court which passed the decree sought to be executed, requesting the former Court to stay the execution of its decree until such notice is cancelled by the Court from which it was sent. The Court receiving such notice shall stay execution accordingly, unless and until

(*a*) the Court which passed the decree sought to be executed cancels the notice ; or

(*b*) the holder of the decree sought to be executed applies to the Court receiving such notice to execute its own decree.

On receiving such application the Court shall proceed to execute the decree and apply the proceeds in satisfaction of the decree sought to be executed.

(iii) In the case of all other decrees the attachment shall be made by a notice in writing by the Court which passed the decree sought to be executed, to the holder of the decree sought to be attached, prohibiting him from transferring or charging the same in any way ; and, where such decree has been passed by any other Court, also by sending to such Court a notice in writing to abstain from executing the decree sought to be attached until such notice is cancelled by the Court from which it was sent. Every Court receiving such notice shall give effect to the same until it is so cancelled.

(iv) The holder of any decree attached under this section shall give to the Court executing the same such information and aid as may reasonably be required.

(v) On the application of the holder of a decree sought to be executed by the attachment of another decree, the Court making an order of attachment under this section shall give notice of such order to the judgment-debtor bound by the decree attached ; and no payment or adjustment of the attached decree made by the judgment-debtor in contravention of such order after receipt of notice thereof, either through the Court or otherwise, shall be recognized by any Court so long as the attachment remains in force.

Attachment of immovable property.

275. (i) Where the property to be attached is immovable, the attachment shall be made by an order prohibiting the judgment-debtor from transferring or charging the property in any way and all persons from taking any benefit from such transfer or charge.

(ii) The order shall be affixed on a conspicuous part of the property and on a conspicuous part of the Court-house.

(iii) Where the property is land which is subject to " The Registration of Titles Enactment, 1911," the requirements of Section 68 of that Enactment shall also be complied with.

(iv) Where the property is land paying revenue to the Government, a copy of the order shall also be served on the Collector of Land Revenue for the district in which the land is situate.

Withdrawal of attachment on satisfaction or reversal of decree.

276. Where

(*a*) the amount decreed and the costs and all charges and expenses resulting from the attachment of any property are paid into Court, or

(*b*) satisfaction of the decree is otherwise made through the Court or certified to the Court, or

(*c*) the decree is set aside or reversed,

the attachment shall be deemed to be withdrawn, and, in the case of immovable property, the withdrawal shall, if the judgment-debtor so desires, be proclaimed at his expense and a copy of the proclamation shall be affixed in the manner prescribed by the last preceding section.

Court may direct coin or currency notes attached to be paid to party entitled.

277. Where the property attached is current coin or currency notes, the Court may, at any time during the continuance of the attachment, direct that such coin or notes, or a part thereof sufficient to satisfy the decree, be paid over to the party entitled under the decree to receive the same.

Private alienation of property after attachment to be void.

278. Where an attachment has been made, any private transfer or delivery of the property attached or of any interest therein, and any payment to the judgment-debtor of any debt, dividend, or other moneys contrary to such attachment, shall be void as against all claims enforceable under the atttachment.

INVESTIGATION OF CLAIMS AND OBJECTIONS.

Investigation of claims to, and objections to attachment of, attached property.

279. (i) Where any claim is preferred to, or any objection is made to the attachment of, any property attached in execution of a decree, on the ground that such property is not liable to such attachment, the Court shall proceed to investigate the claim or objection with the like power as regards the examination of the claimant or objector, and in all other respects, as if he was a party to the suit.

Provided that no such investigation shall be made where the Court considers that the claim or objection was designedly or unnecessarily delayed.

(ii) Where the property to which the claim or objection applies has been advertised for sale, the Court ordering the sale may postpone it pending the investigation of the claim or objection.

Evidence to be adduced by claimant.

280. The claimant or objector must adduce evidence to shew that at the date of the attachment he had some interest in, or was possessed of, the property attached.

Release of property from attachment.

281. Where upon the said investigation the Court is satisfied that, for the reason stated in the claim or objection, such property was not, when attached, in the possession of the judgment-debtor or of some person in trust for him, or in the occupancy of a tenant or other person paying rent to him, or that being in the possession of the judgment-debtor at such time it was so in his possession not on his own account or as his own property but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Court shall pass an order for releasing the property, wholly or to such an extent as it thinks fit, from attachment.

Disallowance of claim to property attached.

282. Where the Court is satisfied that the property was, at the time when it was attached, in the possession of the judgment-debtor as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Court shall disallow the claim.

Continuance of attachment subject to claim of incumbrancer.

283. Where the Court is satisfied that the property is subject to a mortgage, charge, or lien in favour of some person not in possession and thinks fit to continue the attachment, it may do so, subject to such mortgage, charge, or lien.

Saving of suits to establish right to attached property.

284. The party against whom an order under Section 281, 282, or 283 is made may institute a suit to establish the right which he claims to the property in dispute, but, subject to the result of such suit, if any, the order shall be conclusive.

Property attached in execution of decrees of several Courts.

285. Where property not in the custody of any Court is under attachment in execution of decrees of more Courts than one, the Court which shall receive or realize such property and shall determine any claim thereto and any objection to the attachment thereof shall be the Court of highest grade, or, where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

SALE GENERALLY.

Power to order property attached to be sold and proceeds to be paid to person entitled.

286. Any Court executing a decree may order that any property attached by it and liable to sale, or such portion thereof as may seem necessary to satisfy the decree, shall be sold and that the proceeds of such sale, or a sufficient portion thereof, shall be paid to the party entitled under the decree to receive the same.

Sales, by whom conducted and how made.

287. Sales in execution of decrees shall usually be conducted by a licensed auctioneer or by such other person as the Court may by

special order appoint, and, except as provided in Section 297, shall be made by public auction in manner hereinafter mentioned.

Proclamation of sales by public auction.

288. (i) Where any property is ordered to be sold by public auction in execution of a decree, the Court shall cause a proclamation of the intended sale to be made in English, Malay, Chinese, and Tamil.

(ii) Such proclamation shall state the time and place of sale and shall specify as fairly and accurately as possible

(*a*) the property to be sold ;

(*b*) the revenue assessed upon the estate or part of the estate, where the property to be sold is an interest in an estate or a part of an estate paying revenue to the Government ;

(*c*) any incumbrance to which the property is liable ;

(*d*) the amount for the recovery of which the sale is ordered ; and

(*e*) every other thing which the Court considers material for a purchaser to know in order to judge of the nature and value of the property.

(iii) For the purpose of ascertaining the matters so to be specified, the Court may summon any person whom it thinks necessary to summon and may examine him in respect of any such matters and require him to produce any document in his possession or power relating thereto.

(iv) The Judicial Commissioners, with the approval of the Chief Secretary, may make rules for the guidance of the Courts in the exercise of their duties under this section. All such rules shall be published in the *Gazette* and shall thereupon have the force of law.

Indemnity of Judges, etc.

289. No Judge or other public officer shall be answerable for any error, misstatement, or omission in any proclamation under Section 288, unless the same has been committed or made dishonestly.

Mode of publishing proclamation.

290. (i) The proclamation shall be affixed on a conspicuous part of the property, and a copy thereof shall then be affixed on a conspicuous part of the Court-house and, in the case of land paying revenue to the Government, also on a conspicuous part of the office of the Collector of Land Revenue for the district in which the land is situate.

(ii) Where the Court so directs, such proclamation shall also be published in the *Gazette* and in some local newspaper, and the costs of such publication shall be deemed to be costs of the sale.

Time of sale.

291. Except in the case of property of the kind mentioned in the proviso to Section 267, no sale under this Chapter shall, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days in the case of immovable property, and of at least fifteen days in the case of movable property, calculated from the date on which the copy of the proclamation has been affixed on the Court-house of the Judge ordering the sale.

Power to adjourn sale.

292. (i) The Court may in its discretion adjourn any sale under this Chapter to a specified day and hour, and the person conducting any such sale may in his discretion adjourn the sale, recording his

reasons for such adjournment. Provided that where the sale is made in, or within the precincts of, the Court-house, no such adjournment shall be made without the leave of the Court.

(ii) Where a sale is adjourned under this section for a longer period than seven days, a fresh proclamation under Section 288 shall be made, unless the judgment-debtor consents to waive it.

(iii) Every sale shall be stopped if, before the lot is knocked down, the debt and costs (including the costs of the sale) are tendered to the person conducting the sale, or proof is given to his satisfaction that the amount of such debt and costs has been paid into the Court which ordered the sale.

Defaulting purchaser answerable for loss by re-sale.

293. Any deficiency of price which may happen on a re-sale under this Code by reason of the purchaser's default, and all expenses attending such re-sale, shall be certified to the Court by the person holding the sale and shall, at the instance of either the decree-holder or the judgment-debtor, be recoverable from the defaulting purchaser under the provisions of this Chapter relating to the execution of a decree for the payment of money.

Decree-holder not to bid for or buy property without permission.

294. (i) No holder of a decree in execution of which property is sold shall, without the express permission of the Court, bid for or purchase the property.

(ii) Where a decree-holder purchases with such permission, the purchase-money and the amount due on the decree may, subject to the provisions of Section 296 be set-off against one another, and the Court executing the decree shall enter up satisfaction of the decree in whole or in part accordingly.

(iii) Where a decree-holder purchases, by himself or through another person, without such permission, the Court may, if it thinks fit, on the application of the judgment-debtor or any other person whose interests are affected by the sale, by order set aside the sale ; and the costs of such application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it, shall be paid by the decree-holder.

Persons concerned in execution sales not to bid for or buy property sold.

295. No person having any duty to perform in connection with any sale under this Chapter shall either directly or indirectly bid for, acquire, or attempt to acquire any interest in any property sold at such sale.

Proceeds of execution sale to be distributed rateably among decree-holders.

296. (i) Where assets are realized by sale or otherwise in execution of a decree and more persons than one have, prior to the realization, applied to the Court by which such assets are held for execution of decrees for the payment of money against the same judgment-debtor and have not obtained satisfaction thereof, the assets, after deducting the costs of the realization, shall be distributed rateably among all such persons.

Provided as follows :

(*a*) where any property is sold subject to a mortgage or charge, the mortgagee or incumbrancer shall not as such be entitled to share in any surplus arising from such sale ;

(*b*) where any property liable to be sold in execution of a decree is subject to a mortgage or charge, the Court may, with the consent of the mortgagee or incumbrancer, order that the property be sold free from the mortgage or charge, giving to the mortgagee or incumbrancer the same right against the proceeds of the sale as he had against the property sold ;

(*c*) where any immovable property is sold in execution of a decree ordering its sale for the discharge of an incumbrance thereon, the proceeds of sale shall be applied

first, in defraying the expenses of the sale ;

secondly, in discharging the interest and principal money due on the incumbrance ;

thirdly, in discharging the interest and principal money due on subsequent incumbrances (if any) ; and

fourthly, rateably among the holders of decrees for the payment of money against the judgment-debtor who have, prior to the sale of the said property, applied to the Court which passed the decree ordering such sale for execution of such decrees and have not obtained satisfaction thereof.

(ii) Where all or any of the assets liable to be rateably distributed under this section are paid to a person not entitled to receive the same, any person so entitled may sue such person to compel him to refund the assets.

(iii) Nothing in this section affects any right of the Government or the rights of any persons under Part V of "The Labour Code, 1912."

SALE OF MOVABLE PROPERTY.

Negotiable instruments and shares in corporations.

297. Where the property to be sold is a negotiable instrument or a share in a corporation, the Court may, instead of directing the sale to be made by public auction, authorize the sale of such instrument or share through a broker.

Payment for movable property sold by auction.

298. (i) Where movable property is sold by public auction, the price of each lot shall be paid at the time of sale or as soon after as the person holding the sale directs, and in default of payment the property shall forthwith be re-sold.

(ii) On payment of the purchase-money, the person holding the sale shall grant a receipt for the same, and the sale shall become absolute.

Irregularity not to vitiate sale, but any person injured may sue.

299. No irregularity in publishing or conducting the sale of movable property shall vitiate the sale ; but any person sustaining any injury by reason of such irregularity at the hand of any other person may institute a suit against him for compensation, or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

Delivery of movable property, debts and shares.

300. (i) Where the property sold is a negotiable instrument or other movable property, of which actual seizure has been made, it shall be delivered to the purchaser.

(ii) Where the property sold is movable property in the possession of some person other than the judgment-debtor, the delivery thereof to the purchaser shall be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser.

(iii) Where the property sold is a debt not secured by a negotiable instrument, or is a share in a corporation, the delivery thereof shall be made by a written order of the Court prohibiting the creditor from receiving the debt or any interest thereon and the debtor from making payment thereof to any person except the purchaser, or prohibiting the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser or receiving payment of any dividend or interest thereon, and the manager, secretary, or other proper officer of the corporation from permitting any such transfer or making any such payment to any person except the purchaser.

Where a document or endorsement is required to effect transfer.

301. (i) Where the execution of a document or the endorsement of the party in whose name a negotiable instrument or a share in a corporation is standing is required to transfer such negotiable instrument or share, the Court may execute such document or make such endorsement as may be necessary, and such execution or endorsement shall have the same effect as an execution or endorsement by the party.

(ii) Such execution or endorsement may be in the following form :—" A. B., by C. D., Judge of the Court of (*or as the case may be*), in a suit by E. F. against A. B."

(iii) Until the transfer of such negotiable instrument or share, the Court may, by order, appoint some person to receive any interest or dividend due thereon and to sign a receipt for the same ; and any receipt so signed shall be as valid and effectual for all purposes as if the same had been signed by the party.

Vesting order in case of other property.

302. In the case of any movable property not hereinbefore provided for, the Court may make an order vesting such property in the purchaser or as he may direct ; and such property shall vest accordingly.

SALE OF IMMOVABLE PROPERTY.

What Court may order sales of land in execution of decrees.

303. (i) Sales of immovable property in execution of decrees may be ordered by the Supreme Court only.

(ii) Where the judgment-debtor under any decree of a Lower Civil Court is a tenant of immovable property, anything attached to such property which he might before the termination of his tenancy lawfully remove with the permission of his landlord shall, for the purpose of the execution of such decree, be deemed to be movable property and may, if sold in such execution, be severed by the purchaser, but shall not be removed by him from the property until he has done to the property whatever the judgment-debtor would have been bound to do to it if he had removed such thing.

Postponement of sale of land to enable judgment-debtor to raise amount of decree.

304. (i) Where an order for the sale of immovable property has been made, if the judgment-debtor can satisfy the Court that there is reason to believe that the amount of the decree may be raised by charge or lease or private sale of such property, or some part thereof,

or of any other immovable property of the judgment-debtor, the Court may on his application postpone the sale of the property comprised in the order for sale on such terms and for such period as it thinks proper, to enable him to raise the amount.

(ii) In such case the Court shall grant a certificate to the judgment-debtor authorizing him, within a period to be mentioned therein, and notwithstanding anything contained in Section 278, to make the proposed charge, lease, or sale.

Provided that all moneys payable under such charge, lease, or sale shall be paid not to the judgment-debtor but, save in so far as a decree-holder is entitled to set-off such money under the provisions of Section 294, into Court.

Provided also that no charge, lease, or sale under this section shall become absolute until it has been confirmed by the Court.

Deposit by purchaser and re-sale on default.

305. On every sale of immovable property under this Chapter, the person declared to be the purchaser shall pay immediately after such declaration a deposit of twenty-five per centum on the amount of his purchase-money to the person conducting the sale, and in default of such deposit, the property shall forthwith be re-sold.

Time for payment in full.

306. The full amount of purchase-money payable shall be paid by the purchaser before the Court closes on the fifteenth day after the sale of the property, exclusive of such day, or, if the fifteenth day be a Sunday or other holiday, then on the first office day after the fifteenth day.

Procedure in default of payment.

307. In default of payment within the period mentioned in the last preceding section the deposit may, if the Court thinks fit, after defraying the expenses of the sale, be forfeited to the Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold.

Notification on re-sale.

308. Every re-sale of immovable property, in default of payment of the purchase-money within the period allowed for such payment, shall be made after the issue of a fresh notification in the manner and for the period hereinbefore prescribed for the sale.

Bid of co-sharer to have preference.

309. Where the property sold in execution of a decree is a share of undivided immovable property and two or more persons, of whom one is a co-sharer, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer.

Application to set aside sale of land on ground of irregularity or fraud.

310. Where immovable property has been sold in execution of a decree, the decree-holder or any person entitled to share in a rateable distribution of assets or whose interests are affected by the sale may apply to the Court to set aside the sale on the ground of a material irregularity or fraud in publishing or conducting it :

Provided that no sale shall be set aside on the ground of irregularity or fraud unless upon the facts proved the Court is satisfied that the applicant has sustained substantial injury by reason of such irregularity or fraud.

Application to set aside sale on ground of judgment-debtor having no saleable interest.

311. The purchaser at any such sale in execution of a decree may apply to the Court to set aside the sale on the ground that the judgment-debtor had no saleable interest in the property sold.

Effect of objection being disallowed and of its being allowed.

312. (i) Where no application is made under Section 310 or Section 311 or where such application is made and disallowed, the Court shall make an order confirming the sale, and thereupon the sale shall become absolute.

(ii) Where such application is made and allowed, the Court shall make an order setting aside the sale :

Provided that no order shall be made unless notice of the application has been given to all persons affected thereby.

(iii) No suit to set aside an order made under this section shall be brought by any person against whom such order is made.

If sale set aside, price to be returned to purchaser.

313. (i) Where a sale of immovable property is set aside under Section 312, the purchaser shall be entitled to an order for re-payment of his purchase-money (with or without interest as the Court may direct) against any person to whom it has been paid.

(ii) The re-payment of the said purchase-money and of the interest (if any) allowed by the Court may be enforced against such person under the provisions of this Chapter relating to the execution of a decree for the payment of money.

Certificate to purchaser of immovable property.

314. Where a sale of immovable property has become absolute, the Court shall grant a certificate stating the property sold and the name of the person who at the time of sale is declared to be the purchaser. Such certificate shall bear date the day on which the sale became absolute ; and, so far as regard the parties to the suit and persons claiming through or under them, the title to the property sold shall vest in the purchaser from the date of such certificate and not before.

Provided that the decree under which the sale took place was still subsisting at that date.

Bar to suit against purchaser buying on behalf of others.

315. (i) No suit shall be maintained against the certified purchaser on the ground that the purchase was made on behalf of any other person, or on behalf of some one through whom such other person claims.

(ii) Nothing in this section shall bar a suit to obtain a declaration that the name of the certified purchaser was inserted in the certificate fraudulently or without the consent of the real purchaser.

Delivery of property in occupancy of judgment-debtor.

316. Where the immovable property sold is in the occupancy of the judgment-debtor or of some person on his behalf, or of some person claiming under a title created by the judgment-debtor subsequently to the attachment of such property, and a certificate in respect thereof has been granted under Section 314, the Court shall, on the application of the purchaser, order delivery to be made by putting the purchaser or any person whom he may appoint to receive delivery on his behalf into possession of the property, and, if necessary, by removing any person who refuses to vacate the same.

Delivery of property in occupancy of tenant.

317. Where the immovable property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof has been granted under Section 314, the Court

shall, on the application of the purchaser, order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of gong, or in such other mode as is customary, at some convenient place, that the interest of the judgment-debtor has been transferred to the purchaser.

RESISTANCE TO DELIVERY OF POSSESSION TO DECREE-HOLDER OR PURCHASER.

Resistance or obstruction to possession of immovable property.

318. (i) Where the holder of a decree for the possession of immovable property or the purchaser of any such property sold in execution of a decree is resisted or obstructed by any person in obtaining possession of the property, he may make an application to the Court complaining of such resistance or obstruction.

(ii) The Court shall fix a day for investigating the matter and shall summon the party against whom the application is made to appear and answer the same.

Resistance or obstruction by judgment-debtor.

319. Where the Court is satisfied that the resistance or obstruction was occasioned without any just cause by the judgment-debtor or by some other person at his instigation, it shall direct that the applicant be put into possession of the property, and where the applicant is still resisted or obstructed in obtaining possession, the Court may also, at the instance of the applicant and without prejudice to any penalty to which such judgment-debtor or other person may be liable under the Penal Code or any other law for such resistance or obstruction, order that the judgment-debtor or such other person be detained in the civil prison for a term which may extend to thirty days.

Resistance or obstruction by *bonâ fide* claimant.

320. Where the Court is satisfied that the resistance or obstruction was occasioned by any person, other than the judgment-debtor, claiming in good faith to be in possession of the property on his own account or on account of some person other than the judgment-debtor, the Court shall make an order dismissing the application.

Complaint by person dispossessed by decree-holder or purchaser.

321. (i) Where any person other than the judgment-debtor is dispossessed of immovable property by the holder of a decree for the possession of such property or, where such property has been sold in execution of a decree, by the purchaser thereof, he may make an application to the Court complaining of such dispossession.

(ii) The Court shall fix a day for investigating the matter and shall summon the person against whom the application is made to appear and answer the same.

Bonâ fide claimant to be restored to possession.

322. Where the Court is satisfied that the applicant was in possession of the property on his own account or on account of some person other than the judgment-debtor, it shall direct that the applicant be put into possession of the property.

Property transferred *pendente lite*.

323. Nothing in Section 320 or Section 322 shall apply to resistance or obstruction to the execution of a decree for the possession of immovable property by a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree was passed or to the dispossession of any such person.

Orders conclusive, subject to regular suit.

324. Any person not being a judgment-debtor against whom an order is made under Section 319, Section 320, or Section 322 may institute a suit to establish the right which he claims to the present possession of the property ; but, subject to the result of such suit, if any, the order shall be conclusive.

EXAMINATION AND IMPRISONMENT OF JUDGMENT-DEBTORS.

Court may order arrest of judgment-debtor for examination.

325. (i) Where a decree for the payment of money remains wholly or in part unsatisfied (whether execution has issued or not), the Court may order that the judgment-debtor be arrested and brought before the Court at such time as it may order for examination as hereinafter provided, if it appears to the Court that there is reason to believe, having regard to his conduct or the state of his affairs or otherwise,

(*a*) that he is likely to leave the Federated Malay States or any of them with a view of avoiding payment of such money, or of avoiding examination in respect of his affairs, or of otherwise avoiding, delaying, or embarrassing the decree-holder ; or

(*b*) that he has fraudulently made or suffered any grant of, or removed or concealed, any property ; or

(*c*) that the debt or liability in question was contracted or incurred by him by, or by reason of, fraud or false pretence ; or

(*d*) that forbearance in respect thereof was obtained by fraud or false pretence.

(ii) The judgment-debtor may at any time apply to the Court to rescind the said order, and, upon such payment being made or security furnished as the Court shall think reasonable, the judgment-debtor shall be discharged out of custody unless the Court otherwise directs.

Summons instead of arrest.

326. Any decree-holder, instead of applying for an order of arrest under Section 325, may without any application to the Court summon the judgment-debtor by a summons in the form contained in the third schedule, No 152, to be orally examined before the Court respecting his ability to pay or satisfy the claims of the decree-holder. Provided that the issuing of such summons shall not prevent the decree-holder from applying to the Court for an order of arrest under Section 325.

Proceedings on appearance.

327. (i) On the appearance of the judgment-debtor before the Court in obedience to such summons or under such order of arrest as aforesaid, he may be examined on oath by or on behalf of the decree-holder and by the Court respecting his ability to pay the money directed to be paid and for the discovery of property applicable to such payment and as to the disposal which he may have made of any property or otherwise as to any of the matters mentioned in Section 328 (i).

(ii) The decree-holder may summon as witnesses any persons whom he may consider likely to be able to afford information respecting the judgment-debtor's ability to pay the money directed to be paid or respecting his property.

(iii) The judgment-debtor shall be bound to produce all books, papers, and documents in his possession or power relating to property applicable to such payment.

(iv) Whether the judgment-debtor appears or not, the decree-holder and other witnesses may be examined on oath respecting the matters aforesaid, and the Court, if the judgment-debtor does not appear, may order that he be arrested or may proceed to make an order against him *ex parte*.

(v) The Court may adjourn the examination from time to time and may require from the judgment-debtor such security for his appearance at the adjourned hearing as it may think fit, and in default of his finding security may order that he be detained in custody until the adjourned hearing or if he is in custody may discharge him therefrom.

(vi) The Court may, upon such investigation as aforesaid, make any interim order for the protection of any property applicable or available, or supposed to be applicable or available, in discharge of the decree, as it shall think expedient.

(vii) At the close of the investigation the judgment-debtor, if still in custody, shall be discharged therefrom, unless he be committed to the civil prison as hereinafter provided.

Commitment to prison.

328. (i) Upon such investigation the Court may by warrant commit the judgment-debtor to the civil prison for a term not exceeding six months if the Court be the Supreme Court, and six weeks if the Court be an inferior Court, or until payment of the sum due, if it appears to the Court

(*a*) that he then has, or since the date of the decree has had, sufficient means to pay the money directed to be paid by him or part thereof and that he refuses or neglects, or has refused or neglected, to pay the same according to the decree ; or

(*b*) that, with intent to defraud his creditors or any of them, he has made or suffered any gift, delivery, or transfer of any property, or changed, removed, or concealed any property ; or

(*c*) that the debt or liability in question was contracted or incurred by him by, or by reason of, fraud or false pretence or breach of trust committed by him ; or

(*d*) that forbearance thereof was obtained by fraud or false pretence ; or

(*e*) that the debt or liability was wilfully contracted or incurred by him without his having had at the same time a reasonable expectation of being able to pay or discharge it.

(ii) Upon such investigation the Court may order any debt to be paid by instalments and may also order that upon default of payment of any instalment the judgment-debtor shall be committed to the civil prison for a term not exceeding six months if the Court be the Supreme Court, and six weeks if the Court be an inferior Court ; provided that no judgment-debtor shall be imprisoned

because of default of payment of any such instalment unless he shall have been brought before the Court to shew cause why such order of imprisonment should not be carried out.

Imprisonment not to operate as satisfaction.

329. No imprisonment under Section 328 shall operate as a satisfaction or extinguishment of any debt or demand or cause of action, or deprive any person of any right to take out execution against the property of the person imprisoned in the same manner as if such imprisonment had not taken place.

Discharge from custody on satisfaction of debt.

330. Any person imprisoned under Section 328 shall be discharged from custody upon a certificate, signed by the decree-holder and attested by the Registrar of the Court, a Magistrate, or a solicitor, that such person has fully paid the debt and costs in respect of which he was imprisoned, or that the same have otherwise been satisfied.

Certificate of satisfaction.

331. Every decree-holder upon his debt and costs being satisfied by payment or otherwise shall, if the judgment-debtor is imprisoned, forthwith lodge with the Superintendent of the prison in which he is confined a certificate of satisfaction signed and attested as aforesaid ; in default whereof the judgment-debtor or any person on his behalf may apply to the Court for an order for his discharge ; and the Court, upon notice being given to the decree-holder and on proof that the debt has been satisfied, shall order the discharge of the judgment-debtor and may award any sum not exceeding twenty-five dollars to be paid by the decree-holder to the judgment-debtor as compensation for the default made by the decree-holder by not lodging such certificate of satisfaction as aforesaid.

Judicial Commissioners may prescribe subsistence scales for judgment-debtors.

332. (i) The Judicial Commissioners, with the approval of the Chief Secretary, may from time to time prescribe scales, graduated according to rank, race, and nationality, of monthly allowances payable for the subsistence of judgment-debtors.

(ii) No judgment-debtor shall be arrested or detained in custody under the provisions of Section 325 or Section 328 unless and until the decree-holder pays into Court such sum as, having regard to the scales so fixed, the Judge thinks sufficient for the subsistence of the judgment-debtor from his arrest until he can be brought before the Court or during the period of his detention, as the case may be.

(iii) Where a judgment-debtor is committed to the civil prison under the provisions of Section 328, the Court shall fix for his subsistence such monthly allowance as he may be entitled to according to the said scales, or, where no such scales have been prescribed, as it considers sufficient with reference to the class to which he belongs.

(iv) The monthly allowance fixed by the Court shall be supplied by the party on whose application the commitment has been made by monthly payments in advance before the first day of each month.

(v) The first payment shall be made to the proper officer of the Court for such portion of the current month as remains unexpired before the judgment-debtor is received at the prison, and the subsequent payments (if any) shall be made to the officer in charge of the prison.

(vi) Sums disbursed by the decree-holder for the subsistence of the judgment-debtor in the civil prison shall be deemed to be costs in the suit ;

Provided that the judgment-debtor shall not be detained in the civil prison or arrested on account of any sum so disbursed.

Chapter XXIII.

INSOLVENT JUDGMENT-DEBTORS.

Power to apply for declaration of insolvency.

333. (i) Any judgment-debtor against whose property an order of attachment has been made in execution of a decree for the payment of money may apply in writing to be declared an insolvent.

(ii) Any holder of a decree for the payment of money may apply in writing that the judgment-debtor may be declared an insolvent

(iii) Every such application shall be made to the Supreme Court.

Contents of application.

334. (i) The application, when made by the judgment-debtor, shall set forth

(*a*) that an order for the attachment of his property has been made and the Court by which the order of attachment was made ;

(*b*) the amount, nature, and particulars of his property, and the value of any such property not consisting of money ;

(*c*) the place or places in which such property is to be found ;

(*d*) his willingness to put it at the disposal of the Court ;

(*e*) the amount and particulars of all pecuniary claims against him ; and

(*f*) the names and residences of his creditors, so far as they are known to or can be ascertained by him.

(ii) The application, when made by the holder of a decree for the payment of money, shall set forth the date of the decree, the Court by which it was passed, the amount remaining due thereunder, and the place where the judgment-debtor resides.

Signing and verification of application.

335. The application shall be signed and verified by the applicant in the manner hereinbefore prescribed for signing and verifying plaints.

Service of copy of application and notice.

336. (i) The Court shall fix a day for hearing the application and shall cause a copy thereof, with a notice in writing of the time and place at which it will be heard, to be posted in Court and served at the applicant's expense.

(*a*) where the applicant is the judgment-debtor—on the holder of the decree in execution of which the order of attachment was made, or on the solicitor of such decree-holder, and on the other creditors (if any) mentioned in the application ;

(*b*) where the applicant is the decree-holder—on the judgment-debtor or his solicitor.

(ii) The Court may, if it thinks fit, publish notice of the application at the applicant's expense in the *Gazette* and in such local newspapers as it thinks fit.

(iii) Where the applicant is the judgment-debtor, the Court may exempt him from any payments under this section other than payments under sub-section (ii) if satisfied that he is unable to make them.

Power to serve other creditors.

337. The Court may also, if it thinks fit, cause a like copy and notice to be served on any other person alleging himself to be a creditor of the applicant and applying for leave to be heard on the application.

Procedure at hearing.

338. (i) On the day so fixed, or on any subsequent day to which the Court may adjourn the hearing, the Court shall examine the judgment-debtor, in the presence of the persons on whom such notice has been served or their solicitors, as to the causes of his insolvency and his circumstances and future means of payment, and shall hear the decree-holder, the other creditors mentioned in the application, and the other persons (if any) alleging themselves to be creditors ; and the Court may allow such witnesses to be examined as it may consider necessary.

(ii) Where a decree-holder applies for a declaration of insolvency against a judgment-debtor and such declaration is granted by the Court, the examination of the judgment-debtor shall be adjourned until after the filing of the statement prescribed by Section 343, or he may be re-examined after filing such statement.

Declaration of insolvency and appointment of receiver.

339. (i) Where the Court is satisfied that the statements in the application are substantially true, the Court may declare the judgment-debtor to be an insolvent and shall in such case make an order appointing a receiver of his property.

(ii) Where the Court is not so satisfied, it shall make an order rejecting the application.

Creditors to prove their debts. Schedule to be framed.

340. (i) The creditors mentioned in the application, and the other persons (if any) alleging themselves to be creditors of the insolvent, shall then produce evidence of the amount and particulars of their respective pecuniary claims against him ; and the Court shall by order determine the persons who have proved themselves to be the insolvent's creditors, and their respective debts, and shall frame a schedule of such persons and debts, a copy of which shall be posted in the Court-house ; and the declaration under the last preceding section, hereinafter called " the declaration of insolvency," shall be deemed to be a decree in favour of each of the said creditors for their said respective debts.

(ii) No creditor of the insolvent shall have any remedy against the property of the insolvent except under this Chapter, but nothing in this Chapter shall affect the power of any secured creditor to realize his security.

(iii) Nothing in this Chapter shall entitle a partner in an insolvent firm or, where he has died before the insolvency, his legal representative to prove in competition with the creditors of the firm.

(iv) Any creditor of the insolvent who is not mentioned in such schedule may apply to the Court for permission to produce evidence of the amount and particulars of his pecuniary claims against the insolvent and, in case the applicant proves himself to be a creditor

of the insolvent, for an order directing his name to be inserted in the schedule as a creditor for the debt so proved.

(v) Any creditor mentioned in the schedule may apply to the Court for an order altering the schedule so far as regards the amount, nature, or particulars of his own debt, or to strike out the name of another creditor, or to alter the schedule so far as regards the amount, nature, or particulars of the debt of another creditor.

(vi) In the case of any application under sub-section (iv) or sub-section (v), the Court, after causing such notices as it thinks fit to be served, at the applicant's expense, on the insolvent and the other creditors and hearing their objections, if any, may comply with or reject the application.

Stay of proceedings where majority of creditors reside in the Colony.

341. If in any case where a judgment-debtor has been declared to be an insolvent under this Chapter it appears to the Court, upon an application by the receiver (if any) or by any creditor or other person interested, that a majority of the creditors in number and value are resident in the Colony and that from the situation of the property of the insolvent or for other causes his property ought to be distributed among the creditors under the bankruptcy laws of the Colony, the Court after such enquiry as to it seems fit may stay all proceedings under this Chapter and may rescind the order (if any) appointing a receiver upon such terms (if any) as it thinks fit.

Effect of order appointing receiver.

342. (i) Every order under this Chapter appointing a receiver shall be published in the *Gazette*, and every such order shall operate to vest in the receiver all the insolvent's property (except the particulars specified in the first proviso to Section 265), whether set forth in his application or not ; provided that, where the insolvent's property comprises land subject to any law requiring registration of title to land or of any interest in land, such order shall not vest such land in the receiver until the Registrar of Titles or the Collector, as the case may be, of the registration district within which such land is situate shall have been served with a copy of such order and shall have entered in the Register relating to such land a memorandum of the order made. Every declaration of insolvency shall also be published in the *Gazette*.

(ii) The receiver so appointed shall give such security as the Court may direct and shall possess himself of all such property, except as aforesaid.

Where judgment-debtor is declared insolvent on application of decree-holder.

343. (i) Where a judgment-debtor is declared insolvent on the application of a decree-holder, the insolvent shall, within fourteen days after the declaration of insolvency is made, file in Court a statement setting forth the particulars prescribed by clauses (*b*), (*c*), (*e*), and (*f*) of Section 334.

(ii) Such statement shall be signed and verified by the insolvent in the manner hereinbefore prescribed for signing and verifying plaints.

(iii) Where the Court, when it makes the declaration of insolvency, is satisfied by evidence on oath that there is reasonable ground for suspecting that the insolvent is about to abscond, the Court may order that the insolvent be arrested and detained in the civil prison

until he has filed the statement prescribed by this section or until the expiration of six months from his arrest, whichever shall first happen.

(iv) Where the insolvent not having been arrested under sub-section (iii), neglects or refuses to file the statement within the period prescribed by sub-section (i), the Court may order him to be arrested and detained in the civil prison until he has filed such statement or until the expiration of six months from his arrest, whichever shall first happen.

Duty of receiver.

344. (i) The receiver shall proceed under the direction of the Court

(*a*) to convert into money the insolvent's property vested in the receiver as aforesaid ;

(*b*) to pay thereout debts, fines, and penalties (if any) due by the insolvent to the Government ;

(*c*) to pay the decree-holder's costs, where the declaration of insolvency has been made on the application of a decree-holder ;

(*d*) to discharge, according to their respective priorities, all debts secured by mortgage of, or charge or lien on, the insolvent's property ;

(*e*) to pay the wages of labourers (if any) in accordance with the provisions of Chapter XI of "The Labour Code, 1912" ;

(*f*) to pay all wages or salary of every clerk, servant, labourer, or workman, other than labourers referred to in clause (*e*), not exceeding two hundred dollars, in respect of services rendered to the insolvent during three months before the date of the declaration of insolvency ;

(*g*) to distribute the balance among the scheduled creditors rateably according to the amounts of their respective debts and without any preference.

(ii) Such receiver, not being a salaried officer of the Government other than an official receiver, may retain as a remuneration for the performance of his duties a commission, to be fixed by the Court, not exceeding the rate of five per centum upon the amount of the balance so distributed (the amount of the commission so retained being deemed a distribution), and shall, subject to the provisions of this Chapter, deliver the surplus, if any, to the insolvent or his legal representative.

(iii) In any distribution among creditors under this section the receiver shall make provision for debts appearing from the statements of the insolvent or otherwise to be due to persons resident in places so distant from the place where the receiver is acting that in the ordinary course of communication they have not had sufficient time to produce evidence of the amount and particulars of their pecuniary claims against the insolvent or to establish them if disputed and also for debts the subject of claims yet not determined. He shall also make provision for any disputed claims and for the expenses necessary for the administration of the estate or otherwise.

345. An insolvent discharged under Section 346, or duly liquidating his debts under Section 349, shall not be arrested or imprisoned on account of any of the scheduled debts ; but, subject to the provisions of the next following section, the property of an insolvent, whether previously or subsequently acquired (except the particulars specified in the first proviso to Section 265 and except the property vested in the receiver), shall, by order of the Court, be liable to attachment and sale until the debts due to the scheduled creditors are satisfied in full or until the expiry of twelve years from the date of the declaration of insolvency. Effect of discharge.

346. In the event of the receiver certifying, or of the Court being otherwise satisfied, that the insolvent has placed the receiver in possession of all the insolvent's property which has become vested in the receiver or that the insolvent has done everything in his power for that purpose, then, if the aggregate amount of the scheduled debts does not exceed one hundred dollars the Court may, and in any case after the scheduled debts have been satisfied to the extent of one-third or after the expiry of twelve years from the declaration of insolvency the Court shall, declare the insolvent to be discharged from further liability in respect of such debts. Declaration that insolvent is discharged from liability.

347. (i) Where at the examination under Section 338 it is proved that the judgment-debtor has Procedure in case of dishonest debtor.

(*a*) been guilty, in his application or on his examination, of any concealment or of wilfully making any false statement as to the debts due by him or respecting the property belonging to him, whether in possession or in expectancy, or held in trust for him, or

(*b*) fraudulently concealed, transferred, or removed any property, the Court may sentence him by order in writing in a summary manner to imprisonment of either description for a term which may extend to three months.

(ii) Instead of sentencing the judgment-debtor as aforesaid the Court may order the Public Prosecutor to prosecute him for committing any offence referred to in this section, to be specified in such order, and the judgment-debtor if convicted shall be liable to imprisonment of either description for a term which may extend to one year.

DISCOVERY OF INSOLVENT'S PROPERTY.

348. (i) The Court may, on the application of the receiver or of a creditor, at any time after a declaration of insolvency has been made against a judgment-debtor summon before it the insolvent or his wife, or any person known or suspected to have in his possession any property belonging to the insolvent, or supposed to be indebted to the insolvent, or any person whom the Court may deem capable of giving information respecting the insolvent, his dealings or property, and the Court may require any such person to produce any documents in his custody or power relating to the insolvent, his dealings or property. Court may enquire as to insolvent's property.

(ii) Where any person so summoned, after having been tendered a reasonable sum for his expenses, refuses, without lawful impediment made known to the Court at the time of its sitting and allowed by it, to come before the Court at the time appointed, or to produce any such document, the Court may, by warrant, cause him to be arrested and brought before it for examination.

(iii) The Court may examine on oath any person attending or brought before it under this section concerning the insolvent, his dealings or property.

(iv) Where any person on examination before the Court admits that he is indebted to the insolvent, the Court may, on the application of the receiver of a creditor, order him to pay to the receiver at such time and in such manner as to the Court seems expedient the amount admitted or any part thereof, either in full discharge of the whole amount in question or not, as the Court thinks fit, with or without costs of the examination.

(v) Where any person on examination before the Court admits that he has in his possession any property belonging to the insolvent, the Court may, on the application of the receiver or of a creditor, order him to deliver to the receiver such property or any part thereof at such time and in such manner and on such terms as to the Court may seem just.

COMPOSITION OR SCHEME OF ARRANGEMENT.

Composition or scheme in satisfaction of debts of an insolvent.

349. (i) The scheduled creditors of a judgment-debtor who has been declared insolvent may resolve to entertain a proposal for a composition in satisfaction of the debts due to them by the insolvent or a proposal for a scheme of arrangement of the insolvent's affairs.

(ii) The composition or scheme shall not be binding on the creditors unless it is accepted by a majority in number, representing three-fourths in value, of the scheduled creditors and is approved by the Court.

(iii) The insolvent or any scheduled creditor may apply to the Court to approve the composition or scheme, and any scheduled creditor may be heard either for or against such application.

(iv) Such application shall not be heard until the Court is satisfied

(*a*) that the insolvent has been thoroughly examined before the Court as to the causes of his insolvency, his circumstances and his future means of payment ; and

(*b*) that notice, by advertisement or otherwise, has been given to every creditor of the insolvent in sufficient time to enable such creditor to apply to the Court, if he should so desire, for an order directing his name to be inserted in the schedule.

(v) Notice of the time appointed for hearing the application shall be sent by the Court to each of the scheduled creditors.

(vi) Where the Court is of opinion that the terms of the composition or scheme are not reasonable or are not calculated to benefit the general body of creditors, the Court shall, and in any

other case the Court may at its discretion, refuse to approve the composition or scheme.

(vii) Where the Court approves the composition or scheme, the approval may be testified by the seal of the Court being attached to the instrument containing the terms of the composition or scheme or by the terms being embodied in an order of the Court.

(viii) A composition or scheme accepted and approved in pursuance of this section shall be binding on all creditors of the insolvent so far as relates to any debts due to them by the insolvent which have been or might have been scheduled.

(ix) A certificate of the Court that a composition or scheme has been duly accepted and approved shall, in the absence of fraud, be conclusive as to its validity.

(x) The provisions of a composition or scheme under this section may be enforced by the Court on application by any person interested, and any disobedience of an order of the Court made on the application shall be deemed a contempt of Court.

(xi) No composition or scheme shall be approved by the Court which does not provide for the payment in priority to other debts of all debts directed by law to be so paid in the distribution of the property of an insolvent.

(xii) No costs incurred by a debtor of, or incidental to, an application to approve a composition or scheme shall be allowed out of the estate if the Court refuses to approve the composition or scheme.

(xiii) At the time of approving a composition or scheme the Court may correct or supply any accidental or formal slip, error, or omission therein, but no alteration in the substance of the composition or scheme shall be made.

(xiv) When a composition or scheme is approved, the receiver (if any) shall forthwith put the debtor (or, as the case may be, the trustee under the composition or scheme) into possession of the debtor's property. The Court shall also rescind the declaration of insolvency and the order (if any) appointing a receiver.

(xv) In every case of a composition in which a trustee is not appointed to distribute such composition, the Court may require a trustee to be appointed and may refuse to approve the composition unless and until this is done.

(xvi) Where under a composition or scheme of arrangement a trustee is appointed to distribute a composition or to administer the debtor's affairs or to manage his business, such trustee shall, unless expressly exempted therefrom by order of the Court, give security to the satisfaction of the Court for the due performance of his trust. The Court may refuse to approve the composition or scheme unless such security is given.

(xvii) Where default is made in payment of any instalment due in pursuance of a composition or scheme, or where it appears to the Court on satisfactory evidence that the composition or scheme cannot in consequence of legal difficulties or for any sufficient cause

proceed without injustice or undue delay to the creditors or to the debtor, or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, on application by any creditor again declare the debtor insolvent and annul the composition or scheme, but without prejudice to the validity of any sale, disposition, or payment duly made or thing duly done under or in pursuance of the composition or scheme. Where a debtor is declared insolvent under this sub-section, any debt valid in other respects which has been contracted before the date of the declaration of insolvency may be entered by the Court in the schedule.

BANKRUPTCY MATTERS IN THE COLONY.

Action in aid of Courts of the Colony.

350. The Court and the officers thereof shall in all matters of insolvency and bankruptcy act in aid of and be auxiliary to the Courts of the Colony having jurisdiction in bankruptcy; and an order of any such Court of the Colony seeking aid with a request to the Court shall be deemed sufficient to enable the Court to exercise in respect of the matters directed by the order such jurisdiction as either the Court of the Colony which made the request or the Court could exercise in respect of similar matters within their several jurisdictions.

PART II.

INCIDENTAL PROCEEDINGS.

Chapter XXIV.

DEATH, MARRIAGE, AND INSOLVENCY OF PARTIES.

No abatement by party's death, if right to sue survives.

351. The death of a plaintiff or defendant shall not cause the suit to abate if the right to sue survives.

Illustrations.

(*a*) A covenants with B and C to pay an annuity to B during C's life. B and C sue A to compel payment. B dies before decree. The right to sue survives to C, and the suit does not abate.

(*b*) In the same case all the parties die before decree. The right to sue survives to the representative of the survivor of B and C, and he may continue the suit against A's representative.

(*c*) A sues B for libel. A dies. The right to sue does not survive, and the suit abates.

Death of one of several plaintiffs or defendants, where right to sue survives.

352. Where there are more plaintiffs or defendants than one and any of them dies, and the right to sue survives to the surviving plaintiff or plaintiffs alone or against the surviving defendant or defendants alone, the Court shall cause an entry to that effect to be made on the record, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs or against the surviving defendant or defendants.

Death of one of several plaintiffs, where right to sue does not survive to surviving plaintiffs alone.

353. Where there are more plaintiffs than one and any of them dies, and the right to sue does not survive to the surviving plaintiff or plaintiffs alone but survives to him or them and the legal representative of the deceased plaintiff jointly, the Court may cause the legal representative, if any, of the deceased plaintiff to be made

a party and shall thereupon cause an entry to that effect to be made on the record and proceed with the suit.

Death of sole, or sole surviving, plaintiff.

354. Where a sole plaintiff or sole surviving plaintiff dies, the legal representative of the deceased may, where the right to sue survives, apply to the Court to have his name entered on the record in place of the deceased plaintiff, and the Court shall thereupon enter his name and proceed with the suit.

Where no application by representative of deceased plaintiff.

355. Where within six months after the death of a sole plaintiff or sole surviving plaintiff no such application is made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the Court may

(*a*) make an order that the suit shall abate and, on the application of the defendant, award to the defendant the costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased plaintiff, or

(*b*) on the application of the defendant, and upon such terms as to costs or otherwise as the Court thinks fit, make such other order as it thinks fit for bringing in the legal representative of the deceased plaintiff, or for proceeding with the suit in order to a final determination of the matter in dispute, or for both those purposes.

Question as to who is representative of deceased plaintiff.

356. Where a question arises as to who is the legal representative of a deceased plaintiff, the Court may either stay the suit until the fact has been determined in another suit or decide at or before the hearing of the suit who shall be deemed to be such legal representative for the purpose of prosecuting the suit.

Death of one of several defendants or of sole, or sole surviving, defendant.

357. (i) Where there are more defendants than one and any of them die before decree and the right to sue does not survive against the surviving defendant or defendants alone, and also where a sole defendant or sole surviving defendant dies and the right to sue survives, the plaintiff may make an application to the Court specifying the name, description, and place of abode of any person whom he alleges to be the legal representative of the deceased defendant and whom he desires to be made the defendant in his stead.

(ii) The Court shall thereupon enter the name of such representative on the record in the place of such defendant and shall issue a summons to such representative to appear on a day to be therein mentioned to defend the suit ; and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit.

(iii) Any person so made defendant may object that he is not the legal representative of the deceased defendant or may make any defence appropriate to his character as such representative.

(iv) Where the plaintiff fails to make such application within six months after the death of the defendant in question, the suit shall abate, unless he satisfies the Court that he had sufficient cause for not making the application within such period.

(v) The legal representative of a deceased defendant may apply to be made a defendant in place of the deceased defendant, and the provisions of this section, so far as they are applicable, shall apply to the application and to the proceedings and consequences ensuing thereon.

Suit not abated by marriage of female party.

358. (i) The marriage of a female plaintiff or defendant shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and, where the decree is against a female defendant, it may be executed against her alone.

(ii) Where the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also ; and, in case of judgment for the wife, execution of the decree may with such permission be issued upon the application of the husband, where the husband is by law entitled to the subject-matter of the decree.

When plaintiff's insolvency bars suit.

359. (i) The insolvency of a plaintiff in any suit which the receiver appointed under the last preceding Chapter might maintain for the benefit of his creditors shall not bar the suit, unless such receiver declines to continue the suit or to give security for the costs thereof within such time as the Court may order.

(ii) Where the receiver neglects or refuses to continue the suit or to give such security within the time so ordered, the defendant may apply for the dismissal of the suit on the ground of the plaintiff's insolvency, and the Court may make an order dismissing the suit and awarding to the defendant the costs which he has incurred in defending the same, to be proved as a debt against the plaintiff's estate.

Effect of abatement or dismissal.

360. (i) Where a suit abates or is dismissed under this Chapter, no fresh suit shall be brought on the same cause of action.

(ii) The plaintiff or the person claiming to be the legal representative of a deceased plaintiff or the receiver in the case of an insolvent plaintiff may apply for an order to set aside the abatement or dismissal ; and, if it is proved that he was prevented by any sufficient cause from continuing the suit, the Court shall set aside the abatement or dismissal upon such terms as to costs or otherwise as it thinks fit.

Interests created or passing *pendente lite*.

361. In other cases of assignment, creation, or devolution of any interest during the pendency of a suit, the suit may, with the leave of the Court, given either with the consent of all parties or after service of notice in writing upon them and hearing their objections, if any, be continued by or against the person to or upon whom such interest has come or devolved either in addition to or in substitution for the person from whom it has passed, as the case may require.

Chapter XXV.

WITHDRAWAL AND ADJUSTMENT OF SUITS.

Withdrawal of suit or abandonment of part of claim.

362. (i) At any time after the institution of a suit the plaintiff may, as against all or any of the defendants, withdraw his suit or abandon part of his claim.

(ii) Where the Court is satisfied

(*a*) that a suit must fail by reason of some formal defect, or

(*b*) that there are other sufficient grounds for allowing the plaintiff to institute a fresh suit for the subject-matter of a suit or part of a claim,

it may, on such terms as it thinks fit, grant to the plaintiff permission to withdraw from such suit or abandon such part of a claim with liberty to institute a fresh suit in respect of the subject-matter of such suit or such part of a claim.

(iii) Where the plaintiff withdraws from a suit, or abandons part of a claim, without the permission referred to in sub-section (ii), he shall be liable for such costs as the Court may award and shall be precluded from instituting a fresh suit in respect of such subject-matter or such part of the claim.

(iv) Nothing in this section shall be deemed to authorize the Court to permit one of several plaintiffs to withdraw without the consent of the others.

Limitation law not affected by first suit.

363. In any fresh suit instituted on permission granted under the last preceding section the plaintiff shall be bound by the law of limitation in the same manner as if the first suit had not been instituted.

Compromise of suit.

364. Where it is proved to the satisfaction of the Court that a suit has been adjusted wholly or in part by any lawful agreement or compromise, or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject-matter of the suit, the Court shall order such agreement, compromise, or satisfaction to be recorded and shall pass a decree in accordance therewith so far as it relates to the suit, and such decree shall be final, so far as relates to so much of the subject-matter of the suit as is dealt with by the agreement, compromise, or satisfaction.

Chapter XXVI.

PAYMENT INTO COURT.

Deposit by defendant of amount in satisfaction of claim.

365. The defendant in any suit to recover a debt or damages may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the claim.

Notice of deposit.

366. Notice in writing of the deposit shall be given by the defendant to the plaintiff, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the plaintiff on his application.

Interest on deposit not allowed to plaintiff after notice.

367. No interest shall be allowed to the plaintiff on any sum deposited by the defendant from the date of the receipt of such notice, whether the sum deposited is in full of the claim or falls short thereof.

Where plaintiff accepts deposit as satisfaction in part or in full.

368. (i) Where the plaintiff accepts such amount as satisfaction in part only of his claim, he shall give notice in writing to the defendant to that effect and may prosecute his suit for the balance ; and, if the Court decides that the deposit by the defendant was a full satisfaction of the plaintiff's claim, the plaintiff shall pay the costs of

the suit incurred after the deposit and the costs incurred previous thereto, so far as they were caused by excess in the plaintiff's claim.

(ii) Where the plaintiff accepts such amount as satisfaction in full of his claim, he shall present to the Court a statement to that effect, and such statement shall be filed and the Court shall pass judgment accordingly, and, in directing by whom the costs of each party are to be paid, the Court shall consider which of the parties is most to blame for the litigation.

ILLUSTRATIONS.

(*a*) A owes B $100. B sues A for the amount, having made no demand for payment and having no reason to believe that the delay caused by making a demand would place him at a disadvantage. On the plaint being filed, A pays the money into Court. B accepts it in full satisfaction of his claim, but the Court should not allow him any costs, the litigation being presumably groundless on his part.

(*b*) B sues A under the circumstances mentioned in illustration (*a*). On the plaint being filed A disputes the claim. Afterwards A pays the money into Court. B accepts it in full satisfaction of his claim. The Court should also give B his costs of suit, A's conduct having shewn that the litigation was necessary.

(*c*) A owes B $100 and is willing to pay him that sum without suit. B claims $150 and sues A for that amount. On the plaint being filed A pays $100 into Court and disputes only his liability to pay the remaining $50. B accepts the $100 in full satisfaction of his claim. The Court should order him to pay A's costs.

CHAPTER XXVII.

SECURITY FOR COSTS.

Where security for costs may be required from plaintiff.

369. (i) Where, at the institution or at any subsequent stage of a suit, it appears to the Court that a sole plaintiff is, or (when there are more plaintiffs than one) that all the plaintiffs are, residing out of the Federated Malay States and that such plaintiff does not, or that no one of such plaintiffs does, possess any sufficient immovable property within the Federated Malay States other than the property in suit, the Court may, either of its own motion or on the application of any defendant, order the plaintiff or plaintiffs to give security, within a time to be fixed by the order, for the payment of all costs incurred and likely to be incurred by any defendant.

(ii) Whoever leaves the Federated Malay States under such circumstances as to afford reasonable probability that he will not be forthcoming whenever he may be called upon to pay costs shall be deemed to be residing out of the Federated Malay States within the meaning of sub-section (i).

(iii) On the application of any defendant in a suit for money in which the plaintiff is a woman the Court may at any stage of the suit make a like order if it is satisfied that such plaintiff does not possess any sufficient immovable property within the Federated Malay States other than the property in suit.

Effect of failure to furnish security.

370. (i) In the event of such security not being furnished within the time fixed the Court shall make an order dismissing the suit, unless the plaintiff or plaintiffs are permitted to withdraw therefrom

under the provisions of Section 362 or shew good cause why such time should be extended, in which case the Court may extend it.

(ii) Where a suit is dismissed under this section, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action, but he may apply for an order to set the dismissal aside, and, if it is proved to the satisfaction of the Court that he was prevented by any sufficient cause from furnishing the security within the time fixed, the Court shall set aside the dismissal upon such terms as to security, costs, or otherwise as it thinks fit and shall appoint a day for proceeding with the suit.

(iii) The dismissal shall not be set aside unless notice in writing of such application has been served on the defendant.

Chapter XXVIII.

COMMISSIONS AND LETTERS OF REQUEST.

COMMISSIONS TO EXAMINE WITNESSES.

Where Court may issue commission to examine witness within the jurisdiction.

371. Any Court may in any suit issue a commission for the examination, on interrogatories or otherwise, of any person resident within the local limits of its jurisdiction who is exempted under this Code from attending the Court, or who is from sickness or infirmity unable to attend the Court, or who lives at such a distance from the Court that in the opinion of the Court it is unreasonable to compel him to attend the Court.

Order for commission.

372. An order for the issue of a commission for the examination of a witness may be made by the Court either of its own motion or on the application, supported by affidavit or otherwise, of any party to the suit or of the witness to be examined.

To whom commission may issue.

373. A commission for the examination of a person who resides within the local limits of the jursdiction of the Court issuing the same may be issued to any person whom the Court thinks fit to execute the same.

Commission to examine person resident beyond or about to leave, the jurisdiction.

374. (i) Any Court may in any suit issue a commission for the examination of

(*a*) any person resident beyond the local limits of its jurisdiction ;

(*b*) any person who is about to leave such limits before the date on which he is required to be examined in Court.

(ii) Such commission may be issued to any person willing to act whom the Court thinks fit to execute the same.

Commission to examine witness not within the Federated Malay States or not within reasonable distance.

375. Where any Court to which application is made for the issue of a commission for the examination of a person residing at any place not within the Federated Malay States, or at any place within the Federated Malay States but at such a distance from the Court that in the opinion of the Court it is unreasonable to compel him to attend the Court, is satisfied that his evidence is necessary, the Court may issue such commission.

Court to examine witness pursuant to commission.

376. Every Court in the Federated Malay States receiving a commission for the examination of any person shall examine him pursuant thereto.

Return of commission with depositions of witnesses.

377. Where a commission has been duly executed, it shall be returned, together with the evidence taken under it, to the Court out of which it issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order ; and the commission and the return thereto, and the evidence taken under it, shall (subject to the provisions of the next following section) form part of the record of the suit.

When depositions may be read in evidence.

378. Evidence taken under a commission shall not be read as evidence in the suit without the consent of the party against whom the same is offered, unless

(*a*) the person who gave the evidence is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or exempted from personal appearance in Court ; or

(*b*) the Court in its discretion dispenses with the proof of any of the circumstances mentioned in clause (*a*) and authorizes the evidence of any person being read as evidence in the suit, notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

Provisions to apply to commissions issued by foreign Courts.

379. The provisions hereinbefore contained as to the execution and return of commissions shall apply to commissions issued by—

(*a*) Courts situate in the United Kingdom or in any British Colony or possession or in any State under the protection of His Britannic Majesty ;

(*b*) Courts of any foreign country for the time being in alliance with His Britannic Majesty.

LETTERS OF REQUEST TO EXAMINE WITNESSES.

Letters of request.

380. If in any case the Supreme Court or a Judicial Commissioner shall so order, there shall be issued a request to examine witnesses, in lieu of a commission, where the witnesses to be examined are resident elsewhere than in the Federated Malay States. Such order and request shall be in the forms in the third schedule, with such variations as circumstances may require ; and every such request shall be accompanied by a list of questions to be put to the witnesses and by a translation of the request and of the said questions into the language of the country in which the witnesses are to be examined, unless the English language be the language of such country.

COMMISSIONS FOR LOCAL INVESTIGATIONS.

Commission to make local investigation.

381. In any suit or proceeding in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property or the amount of any mesne profits or damages or annual net profits, and the same cannot be conveniently conducted by the Judge in person, the Court may issue a commission to such person as it thinks fit, provided that such person be willing to act, directing him to make such investigation and to report thereon to the Court :

Provided that, when the Resident of a State has made and published in the *Gazette* rules as to the persons to whom such commissions shall be issued in such State, the Court shall be bound by such rules.

Procedure of Commissioner.

382. (i) The Commissioner, after such local inspection as he deems necessary and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing signed by him, to the Court.

(ii) The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the suit and shall form part of the record ; but the Court, or, with the permission of the Court, any of the parties to the suit, may examine the Commissioner personally in open Court as to any of the matters referred to him or mentioned in his report, or as to his report, or as to the manner in which he has made the investigation.

COMMISSIONS TO EXAMINE ACCOUNTS.

Commission to examine or adjust accounts.

383. In any suit in which an examination or adjustment of accounts is necessary the Court may issue a commission to such person as it thinks fit directing him to make such examination or adjustment.

Court to give necessary instructions to Commissioner.

384. (i) The Court shall furnish the Commissioner with such part of the proceedings and such instructions as appear necessary ; and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry or is also to report his own opinion on the point referred for his examination.

(ii) The proceedings and report, if any, of the Commissioner shall be evidence in the suit ; but where the Court has reason to be dissatisfied with them, it may direct such further enquiry as it shall think fit.

COMMISSIONS TO MAKE PARTITION ; SALE IN LIEU OF PARTITION.

Commission to make partition of immovable property.

385. (i) In any suit in which the partition of immovable property appears to the Court to be necessary, the Court, after ascertaining the several parties interested in such property and their several rights therein, may issue a commission to such persons as it thinks fit to make a partition according to such rights.

(ii) The Commissioners shall, after such enquiry as may be necessary, divide the same into as many shares as may be directed by the order under which the commission was issued, and shall allot such shares to the parties, and may, if authorized thereto by the said order, award sums to be paid for the purpose of equalizing the value of the shares.

(iii) The Commissioners shall then prepare and sign a report, or (if they cannot agree) separate reports, appointing the share of each party and distinguishing each share (if so directed by the said order) by metes and bounds. Such report or reports shall be annexed to the commission and transmitted to the Court ; and the Court, after

hearing any objections which the parties may make to the report or reports, shall confirm, vary, or set aside the same.

(iv) Where the Court confirms or varies the report or reports, it shall pass a decree in accordance with the same as confirmed or varied ; but where the Court sets aside the report or reports, it shall either issue a new commission or make such other order as it shall think fit.

(v) Upon any partition the Court shall make such order as may be just respecting any revenue payable to the Government in respect of the immovable property.

Power to order sale in lieu of partition.

386. (i) Instead of issuing a commission under Section 385, if it appears to the Court that a sale of the property and a distribution of the proceeds would be more beneficial for the parties interested than a partition of the property between or among them, the Court may, if it thinks fit, on the request of any of the parties interested and notwithstanding the dissent or disability of any others of them, direct a sale of the property accordingly and may give all necessary or proper consequential directions.

(ii) On any such sale the Court may, if it thinks fit, allow any of the parties interested in the property to bid at the sale on such terms as to non-payment of deposit, or as to setting off or accounting for the purchase money or any part thereof instead of paying the same, or as to any other matters, as to the Court seem reasonable.

(iii) A request for sale under sub-section (i) may be made on the part of a minor, a person of unsound mind, or a person under any other disability by the next friend, guardian, committee in lunacy, or other person authorized to act on behalf of the person under such disability.

GENERAL PROVISIONS.

Expenses of commission or letter of request to be paid into Court.

387. Before issuing any commission or letter of request under this Chapter the Court may order such sum (if any) as it thinks reasonable for the expenses of the commission or in connection with the letter of request to be, within a time to be fixed by the Court, paid into Court by the party at whose instance or for whose benefit the commission or letter of request is issued.

Powers of Commissioners.

388. Any Commissioner appointed under this Chapter may, unless otherwise directed by the order of appointment,

(*a*) examine the parties and any witness whom they or any of them may produce and any other person whom the Commissioner thinks proper to call upon to give evidence in the matter referred to him ;

(*b*) call for and examine documents and other things relevant to the subject of enquiry ;

(*c*) at any reasonable time enter upon or into any land or building mentioned in the order.

Summoning, attendance, and examination of witnesses before Commissioner.

389. The provisions of this Code relating to the summoning, attendance, and examination of witnesses, and to the remuneration of, and penalties to be imposed upon, witnesses, shall apply to persons required to give evidence or to produce documents under this

Chapter, whether the commission in execution of which they are so required has been issued by a Court situate within, or by a Court situate beyond, the limits of the Federated Malay States, and for the purposes of this section the Commissioner shall be deemed to be a Civil Court.

Parties to appear before Commissioner.

390. (i) Where a commission is issued under this Chapter, the Court shall direct that the parties to the suit shall appear before the Commissioner in person or by their agents or solicitors.

(ii) Where all or any of the parties do not so appear, the Commissioner may proceed *ex parte*.

Chapter XXIX.

AID TO FOREIGN TRIBUNALS.

SERVICE OF FOREIGN LEGAL PROCESS IN THE FEDERATED MALAY STATES.

Service of foreign process in pursuance of letter of request.

391. (i) Subject to any special provision made by Section 608 of this Code or otherwise, where in any civil or commercial matter pending before a Court or Tribunal of a foreign country a letter of request from such Court or Tribunal for service on any person in the Federated Malay States of any process or citation in such matter is transmitted to the Supreme Court by the Chief Secretary with an intimation that it is desirable that effect should be given to the same, the following procedure shall be adopted :

(*a*) The letter of request for service shall be accompanied by a translation thereof in the English language and by two copies of the process or citation to be served and two copies thereof in the English language ;

(*b*) Service of the process or citation shall be effected by delivering to and leaving with the person to be served one copy of the process to be served, and one copy of the translation thereof, in accordance with the provisions of this Code regulating service of process ;

(*c*) After service has been effected the process server shall return to the Registrar or an Assistant Registrar of the Supreme Court one copy of the process and shall verify by affidavit, to be made before the Registrar or Assistant Registrar, a return stating the time when and the manner in which the process was served ;

(*d*) The particulars of charges for the cost of effecting service shall be submitted to the Registrar or Assistant Registrar, who shall certify the correctness of the charges or such other amount as shall be properly payable for the cost of effecting service. A copy of such charges and certificate shall be forwarded to the Chief Secretary.

(*e*) The Registrar or Assistant Registrar shall transmit to the Chief Secretary the letter of request for service received from the foreign country together with the evidence of service with a certificate appended thereto duly sealed

with the seal of the Supreme Court. Such certificate shall be in the form in the third schedule.

(ii) The Supreme Court may make all such orders for substituted service or otherwise as may be necessary to give effect to this section.

OBTAINING EVIDENCE FOR FOREIGN TRIBUNALS.

Evidence for foreign Tribunals.

392. (i) Where any civil or commercial matter is pending before a Court or Tribunal of a foreign country and it is made to appear to the Supreme Court or a Judge thereof, by Commission Rogatoire or letter of request or other evidence as hereinafter provided, that such Court or Tribunal is desirous of obtaining the testimony in relation to such matter of any witness or witnesses within the Federated Malay States, the Court or a Judge may, on the *ex parte* application of any person shewn to be duly authorized to make the application on behalf of such foreign Court or Tribunal, and on production of the Commission Rogatoire or letter of request or such other evidence as the Court or a Judge may require, order the examination upon oath, upon interrogatories or otherwise, of such witness or witnesses accordingly ; and the Court or a Judge may by the same order, or by any subsequent order, command the attendance of any person to be named in such order for the purpose of being examined, or the production of any writings or other documents to be mentioned in such order, and may give all such directions as to the time, place, and manner of such examination and all other matters connected therewith as may appear reasonable and just ; and any such order may be enforced in like manner as an order made by such Court or Judge in a suit pending in such Court or before such Judge.

(ii) An order under sub-section (i) shall be in the form in the third schedule, with such variations as circumstances may require.

(iii) The examination shall be taken before the Registrar or an Assistant Registrar who shall append to the depositions a certificate, in the form in the third schedule with such variations as circumstances may require, duly sealed with the seal of the Supreme Court and shall forward the depositions so certified, and the Commission Rogatoire or letter of request, if any, to the Chief Secretary for transmission to the foreign Court or Tribunal requiring the same.

(iv) An order under sub-section (i) may, if the Court or a Judge shall think fit, direct the said examination to be taken in such manner as may be requested by the Commission Rogatoire or letter of request from the foreign Court, or therein signified to be in accordance with the practice or requirements of such Court or Tribunal, or which may for the same reason be requested by the applicant for such order. But where no such special directions are given in the order for examination, the same shall be taken in the manner prescribed by Chapter XVIII.

(v) Where a Commission Rogatoire or letter of request, as mentioned in sub-section (i), is transmitted to the Supreme Court by the Chief Secretary with an intimation that it is desirable that effect should be given to the same without requiring an application to be made to the Court by the agents in the Federated Malay States of any of the parties to the action or matter in the foreign country, the

Registrar shall transmit the same to the Legal Adviser, who may thereupon make such applications and take such steps as may be necessary to give effect to such Commission Rogatoire, or letter of request, in accordance with this section.

PART III.

SUITS IN PARTICULAR CASES.

Chapter XXX.

SUITS BY OR AGAINST THE GOVERNMENT.

Government of the Federated Malay States.

393. Suits by or against the Government of the Federated Malay States shall be instituted by or against (as the case may be) " the Chief Secretary to Government," a body corporate ; and the said body corporate shall not be sued except as in this Chapter provided.

Government of a State.

394. Suits by or against the Ruler or Government of a State which is one of the Federated Malay States shall be instituted by or against (as the case may be) " the State of Perak," " the State of Selangor," "the State of Negri Sembilan," or "the State of Pahang," as the case may be, and each of the said States may, subject to the provisions of this Chapter, sue and be sued as a body corporate.

Wording of plaint.

395. In suits by a State, instead of inserting in the plaint the name and description and place of abode of the plaintiff, it shall be sufficient to insert the words " the State of Perak," " the State of Selangor," " the State of Negri Sembilan," or " the State of Pahang," as the case may be.

Subscription and verification of plaint. Appearances and acts.

396. (i) In suits by the Chief Secretary or by a State the plaint may be subscribed and verified on behalf of the Chief Secretary or of such State by any public officer or other person who is able to depose to the facts of the case.

(ii) Any public officer or other person, authorized either specially or generally in writing by the Chief Secretary to act for him or by the Resident of a State to act for such State in respect of any judicial proceeding, shall be deemed to be the recognized agent by whom appearances, acts, and applications under this Code in respect of such judicial proceeding may be made or done on behalf of the Chief Secretary or of such State. The Legal Adviser, or any solicitor specially authorized by the Chief Secretary or by the Resident of a State, or any such recognized agent as aforesaid, may in any case appear as advocate for the Chief Secretary or for such State, as the case may be.

Plaint to be submitted.

397. (i) In suits against the Chief Secretary to Government or against a State, after the plaint has been admitted, and before a summons is issued, the Judge shall transmit the plaint,

(*a*) in suits against the Chief Secretary to Government, to the Chief Secretary, and

(*b*) in suits against a State, to the Resident of such State,

for consideration.

(ii) The Chief Secretary or Resident, as the case may be, shall on receipt of a plaint transmitted to him under sub-section (i) consider the same and shall, if it appears to him that the claim is a *bonâ fide* claim which cannot be amicably settled, by endorsement under his hand on the plaint order that right be done and nominate a public officer or other person to accept service of a summons on behalf of the defendant in the suit.

(iii) In the event of refusal to endorse the plaint under sub-section (ii), the plaintiff may appeal,

(*a*) where the refusal is by the Chief Secretary, to the High Commissioner, and

(*b*) where the refusal is by a Resident, to the Chief Secretary,

and thereupon the High Commissioner or the Chief Secretary, as the case may be, may, if he shall think fit, so endorse the plaint.

(iv) Upon the return of the plaint, so endorsed, to the Judge, a summons shall be issued and the suit shall thereafter, subject to the provisions of this Chapter, proceed as an ordinary suit for a similar purpose between subject and subject.

(v) Where

(*a*) the Chief Secretary, or on appeal from him the High Commissioner, or

(*b*) a Resident, or on appeal from him the Chief Secretary,

refuses to endorse the plaint as provided in sub-sections (ii) and (iii), the Judge shall reject the plaint and refund to the plaintiff any Court fees which the plaintiff may have paid upon presenting the plaint.

Claims which may be enforced by suit.

398. Any claim, against the Government of the Federated Malay States or against the Ruler or Government of a State, which

(*a*) is founded on the use or occupation or right to use or occupation of State lands, or

(*b*) arises out of the revenue laws, or

(*c*) arises out of any contract which has been or may be or should have been entered into on behalf of the Government of the Federated Malay States by or by the authority of the Chief Secretary, or on behalf of the Ruler of such State by or by the authority of the Government of such State, and which would if such claim had arisen between subject and subject afford ground for a suit under this Code, or

(*d*) is for damages or compensation in respect of a matter arising in the Federated Malay States or in such State, as the case may be, or

(*e*) is a claim, not included in the preceding clauses, which might lawfully be enforced as between subject and subject,

may, subject to the provisions of this Chapter, be enforced by suit against the Chief Secretary to Government or against such State, as the case may be, under this Code.

399. A public officer, acting on behalf of a known department of the Government of the Federated Malay States or of a State and in discharge of duties incident to his public employment, is not liable personally upon contracts made by him in that capacity; nor does he impliedly warrant that he has in fact authority to enter into such contracts. Public officer acting on behalf of the Government not liable personally.

400. (i) Contracts made in the Federated Malay States for the public service of the said States by a Federal officer of the said States duly gazetted to his office shall be deemed to be made by the authority of the Government of the said States when executed or signed by the Chief Secretary or by a Federal officer of the said States duly authorized in writing by the Chief Secretary, either generally for all contracts in his department or for the particular case, to sign or execute such contracts. Contracts made on behalf of the Government.

(ii) Contracts made in a State for the public service of such State by a public officer of such State duly gazetted to his office shall be deemed to be made by the authority of the Ruler or Government of such State when executed or signed by the Resident of such State or by a public officer of such State duly authorized in writing by the Resident, either generally for all contracts in his department or for the particular case, to sign or execute such contracts.

(iii) Contracts made in England by the Crown Agents for the Colonies shall, so far as the same come within the jurisdiction of the Courts of the Federated Malay States, be deemed,

(*a*) if made on behalf of the Government of the Federated Malay States, to be contracts made for the public service of the said States by a Federal officer of the said States, and,

(*b*) if made on behalf of the Ruler or Government of a State, to be contracts made for the public service of such State by a public officer of such State.

(iv) No contracts except those made in manner hereinbefore provided for contracts on behalf of the Government of the Federated Malay States shall be deemed to be made by the authority of the said Government; and no contracts except those made in manner hereinbefore provided for contracts on behalf of the Ruler or Government of a State shall be deemed to be made by the authority of the Ruler or Government of such State.

(v) This section, so far as it relates to contracts on behalf of the Government of the Federated Malay States, applies only to contracts made after the commencement of this Enactment.

(vi) Nothing in this section applies to contracts relating to the use or occupation of State lands.

401. In all suits under this Code by or against the Chief Secretary or by or against a State, costs may be adjudged by the Court for and against the Chief Secretary or such State on the same principles on which costs are adjudged in similar matters between subject and subject. Costs.

Fees.

402. Fees for matters done in the Courts for the Chief Secretary or for a State shall not be payable in the first instance ; but where judgment is given for the Chief Secretary or for such State with costs, the amounts which otherwise would have been payable by the Chief Secretary or by such State as fees shall be chargeable to and payable by the opposite party.

No interrogatories.

403. Interrogatories shall not be administered to, nor shall an order for the discovery or inspection of documents be made against, the Chief Secretary or a State, or any public officer or other person as representing the Chief Secretary or a State.

Execution not to issue.

404. Where in any suit a decree is passed against the Chief Secretary or against a State, no execution shall issue thereon, but a copy of such decree, under the seal of the Court and signature of the Judge, shall be transmitted by the Judge to the Chief Secretary or to the Resident of such State, as the case may be, who, where the decree is for the payment of money, shall have power by warrant under his hand to direct the amount awarded by such decree to be paid by the Federal Treasurer or by the State Treasurer, as the case may be, and in case of any other decree shall have power to take such measures as may be necessary to cause the same to be carried into effect.

Suits to be in accordance with this Chapter.

405. All suits which may be lawfully brought by or against the Chief Secretary or a State shall be brought in accordance with the provisions of this Chapter and not otherwise.

Chapter XXXI.

SUITS BY OR AGAINST MILITARY MEN.

Officers or soldiers who cannot obtain leave may authorize any person to sue or defend for them.

406. (i) Where any officer or soldier actually serving the Government in a military capacity is a party to a suit and cannot obtain leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any person to sue or defend in his stead.

(ii) The authority shall be in writing and shall be signed by the officer or soldier in the presence of his commanding officer, or the next subordinate officer if the party be himself the commanding officer.

(iii) Such commanding or other officer shall countersign the authority, which shall be filed in Court.

(iv) When so filed the countersignature shall be sufficient proof that the authority was duly executed and that the officer or soldier by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person.

Explanation.—In this Chapter the expression "commanding officer" means the officer in actual command for the time being of any regiment, corps, or detachment to which the officer or soldier belongs.

Person so authorized may act personally or appoint solicitor.

407. Any person authorized by an officer or a soldier to prosecute or defend a suit in his stead may prosecute or defend it in person in the same manner as the officer or soldier could do if present ; or he may appoint a solicitor to prosecute or defend the suit on behalf of such officer or soldier.

408. Processes served upon any person authorized by an officer or a soldier, as in Section 406 provided, or upon any solicitor appointed as aforesaid by such person to act for, or on behalf of, such officer or soldier, shall be as effectual as if they had been served on the party in person or on his solicitor. Service on person so authorized, or on his solicitor, to be good service.

409. (i) Where an officer or a soldier is a defendant, the Court shall send a copy of the summons to his commanding officer for the purpose of being served on him. Service on officers and soldiers.

(ii) The officer to whom such copy is sent, after causing it to be served on the person to whom it is addressed, if practicable, shall return it to the Court with the written acknowledgment of such person endorsed thereon.

(iii) If from any cause the copy cannot be so served, it shall be returned to the Court by which it was sent, with information of the cause which has prevented the service.

410. (i) Where, in any proceedings under this Code, a warrant of arrest or other process is to be executed within the limits of a cantonment, barrack, or military station, the officer charged with the execution of such warrant or other process shall deliver the same to the commanding officer. Execution of warrant of arrest in cantonments, etc.

(ii) The commanding officer shall back the warrant or other process with his signature, and, in the case of a warrant of arrest, if the person named therein is within the limits of his command, shall cause him to be arrested and delivered to the officer so charged.

Chapter XXXII.

SUITS BY OR AGAINST CORPORATIONS.

411. In suits by a corporation the plaint may be signed and verified on behalf of the corporation by the secretary or by any director or other principal officer of the corporation who is able to depose to the facts of the case. Signature and verification of plaint.

412. Where the suit is against a corporation, the summons may be served Service on corporation.

(*a*) by leaving it at the registered office (if any) of the corporation ; or

(*b*) by sending it by post in a letter addressed to the corporation at the office, or, if there be more offices than one, at the principal office of the corporation, whether such office be situated within the Federated Malay States or elsewhere ;

(*c*) by giving it to the secretary or to any director or other principal officer of the corporation.

413. The Court may at any stage of the suit require the personal appearance of the secretary or of any director or other principal officer of the corporation resident in the Federated Malay States who may be able to answer material questions relating to the suit. Personal attendance of officer.

Chapter XXXIII.

SUITS BY OR AGAINST FIRMS AND PERSONS CARRYING ON BUSINESS IN NAMES OTHER THAN THEIR OWN.

Suing of partners in name of firm.

414. (i) Any two or more persons claiming or being liable as partners and carrying on business in the Federated Malay States may sue or be sued in the name of the firm (if any) of which such persons were partners at the time of the accruing of the cause of action, and any party to a suit may in such case apply to the Court for a statement of the names and addresses of the persons who were, at the time of the accruing of the cause of action, partners of such firm, to be furnished and verified in such manner as the Court may direct.

(ii) Where persons sue or are sued as partners in the name of their firm under sub-section (i), it shall, in the case of any document required by or under this Code to be signed, verified, or certified by the plaintiff or the defendant, suffice if such document is signed, verified, or certified by any one of such persons.

Disclosure of partners' names.

415. (i) Where a suit is instituted by partners in the name of their firm, the plaintiffs or their solicitor shall, on demand in writing by or on behalf of any defendant, forthwith declare in writing the names and places of residence of all the persons constituting the firm on whose behalf the suit is instituted.

(ii) Where the plaintiffs or their solicitor fail to comply with any demand made under sub-section (i), all proceedings in the suit may, upon an application for that purpose, be stayed upon such terms as the Court may direct.

(iii) Where the names of the partners are declared in the manner referred to in sub-section (i), the suit shall proceed in the same manner, and the same consequences in all respects shall follow, as if they had been named as plaintiffs in the plaint;

Provided that all the proceedings shall nevertheless continue in the name of the firm.

Service of summons.

416. Where persons are sued as partners in the name of their firm, the summons shall be served either

(*a*) upon any one or more of the partners, or

(*b*) at the principal place at which the partnership business is carried on within the Federated Malay States upon any person having, at the time of service, the control or management of the partnership business there,

as the Court may direct; and such service shall be deemed good service upon the firm so sued, whether all or any of the partners are within or without the Federated Malay States;

Provided that, in the case of a partnership which has been dissolved to the knowledge of the plaintiff before the institution of the suit, the summons shall be served upon every person within the Federated Malay States whom it is sought to make liable,

Right of suit on death of partner.

417. (i) Notwithstanding anything contained in Section 45 of the Contract Enactments, 1899 (Pahang, 1900), where two or more persons may sue or be sued in the name of a firm under the foregoing provisions and any of such persons dies, whether before the institution or during the pendency of any suit, it shall not be necessary to join the legal representative of the deceased as a party to the suit.

(ii) Nothing in sub-section (i) shall limit or otherwise affect any right which the legal representative of the deceased may have

(*a*) to apply to be made a party to the suit, or

(*b*) to enforce any claim against the survivor or survivors.

Notice in what capacity served.

418. Where a summons is issued to a firm and is served in the manner provided by Section 416, every person upon whom it is served shall be informed by notice in writing, given at the time of such service, whether he is served as a partner or as a person having the control or management of the partnership business, or in both characters, and in default of such notice the person served shall be deemed to be served as a partner.

Appearance at the hearing.

419. Where persons are sued as partners in the name of their firm and on the day fixed for the defendant to appear and answer any partner of such firm appears when the suit is called on for hearing, such appearance shall be a sufficient appearance by the firm.

No appearance by manager necessary.

420. Where a summons is served in the manner provided by Section 416 upon a person having the control or management of the partnership business, it shall not be necessary for him to appear and answer unless he is a partner of the firm sued.

Denial of partnership.

421. Any person served with summons as a partner under Section 416 may file a written statement denying that he is a partner, but the suit may, nevertheless, proceed against the firm provided that the requirements of Section 416 are complied with.

Execution of decree against a firm.

422. (i) Where a decree has been passed against a firm, execution may be granted

(*a*) against any property of the partnership within the Federated Malay States ;

(*b*) against any person who has admitted in his written statement that he is, or who has been adjudged to be, a partner ;

(*c*) against any person who has been individually served as a partner with the summons and has not filed a written statement denying that he is a partner.

Provided that nothing in this sub-section shall be deemed to limit or otherwise affect the provisions of Section 247 of the Contract Enactments, 1899 (Pahang, 1900).

(ii) Where the decree-holder claims to be entitled to cause the decree to be executed against any person, other than such a person as is referred to in sub-section (i), clauses (*b*) and (*c*), as being a partner of the firm, he may apply to the Court for leave so to do ; and where the liability is not disputed, the Court may grant such leave, or where the liability is disputed, may order that the liability of such person be tried and determined in any manner in which any issue or question in a suit may be tried and determined.

Attachment of debts owing from a firm.

423. Debts owing from a firm carrying on business within the Federated Malay States may be attached under Chapter XXII, although one or more partners of such firm may be resident out of the Federated Malay States, provided that some person having the control or management of the partnership business, or some partner of the firm within the Federated Malay States, is served with a copy of the prohibitory order.

Suits between co-partners.

424. This Chapter shall apply to suits between a firm and one or more of the partners therein and to suits between firms having one or more partners in common, provided that such firm or firms carry on business in the Federated Malay States ; but no execution shall be issued in such suits except by leave of the Court, and, on an application for leave to issue such execution, all such accounts and inquiries may be directed to be taken and made and directions given as may be just.

Suit against person carrying on business in name other than his own.

425. Any person carrying on business within the Federated Malay States in a name or style other than his own name may be sued in such name or style as if it were a firm name ; and, so far as the nature of the case will permit, all sections relating to proceedings against firms shall apply.

Chapter XXXIV.

SUITS BY OR AGAINST TRUSTEES, EXECUTORS, AND ADMINISTRATORS.

Representation of beneficiaries in suits concerning property vested in trustees, etc.

426. In all suits concerning property vested in a trustee, executor, or administrator, where the contention is between the persons beneficially interested in such property and a third person, the trustee, executor, or administrator shall represent the persons so interested, and it shall not ordinarily be necessary to make them parties to the suit. But the Court may, if it thinks fit, order them or any of them to be made such parties.

Joinder of trustees, executors, and administrators.

427. Where there are several trustees, executors, or administrators, they shall all be made parties to a suit against one or more of them :

Provided that executors who have not proved their testator's will, and trustees, executors, and administrators outside the Federated Malay States need not be made parties.

Husband of married executrix not to join.

428. Unless the Court directs otherwise, the husband of a married executrix or administratrix shall not be a party to a suit by or against her.

Chapter XXXV.

SUITS BY OR AGAINST MINORS AND PERSONS OF UNSOUND MIND.

Minor to sue by next friend.

429. Every suit by a minor shall be instituted in his name by a person who in such suit shall be called the next friend of the minor ; such person may be ordered to pay any costs in the suit as if he were the plaintiff.

430. (i) Where a suit is instituted by or on behalf of a minor without a next friend, the defendant may apply to have the plaint taken off the file, with costs to be paid by the solicitor or other person by whom it was presented. Where suit instituted without next friend, plaint to be taken off file.

(ii) Notice of such application shall be given to such person, and the Court, after hearing his objections, if any, may make such order in the matter as it thinks fit.

431. (i) Where the defendant to a suit is a minor, the Court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the suit for such minor, to put in the defence for such minor, and generally to act on his behalf in the conduct of the case. Minor to defend by guardian for the suit.

(ii) An order for the appointment of a guardian for the suit may be obtained upon application in the name and on behalf of the minor or by the plaintiff.

(iii) Such application shall be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in controversy in the suit adverse to that of the minor and that he is a fit person to be so appointed.

(iv) No order shall be made on any application under this section except upon notice to the minor and to any guardian of the minor appointed or declared by an authority competent in that behalf, or, where there is no such guardian, upon notice to the father or other natural guardian of the minor, or, where there is no father or other natural guardian, to the person in whose care the minor is, and after hearing any objection which may be urged on behalf of any person served with notice under this sub-section.

432. (i) Any person who is of sound mind and has attained majority may act as next friend of a minor or be appointed his guardian for the suit, provided that the interest of such person is not adverse to that of the minor and that he is not, in the case of a next friend, a defendant or, in the case of a guardian for the suit, a plaintiff. Who may be next friend or guardian.

(ii) Where there is no other person fit and willing to act as guardian for the suit, the Court may appoint any of its officers to be such guardian.

433. (i) Every application to the Court on behalf of a minor, other than an application under Section 431 (ii) or Section 437 or Section 438 (ii), shall be made by his next friend or by his guardian for the suit. Representation of minor by next friend or guardian for the suit.

(ii) Every order made in a suit or on any application before the Court, in or by which a minor is in any way concerned or affected, without such minor being represented by a next friend or guardian for the suit, as the case may be, may be discharged, and, where the solicitor of the party at whose instance such order was obtained knew, or might reasonably have known, the fact of such minority, with costs to be paid by such solicitor.

434. A next friend or guardian for the suit shall not receive or take any money or other thing on behalf of a minor at any time before decree or order, unless he has first obtained the leave of Next friend or guardian not to receive money without leave of Court.

the Court and given security to its satisfaction that such money or other thing shall be duly accounted for and held for the benefit of such minor.

Next friend or guardian not to compromise without leave of Court.

435. (i) A next friend or guardian for the suit shall not without the leave of the Court enter into any agreement or compromise on behalf of a minor with reference to the suit in which he acts as next friend or guardian.

(ii) Any such agreement or compromise entered into without the leave of the Court shall be voidable against all parties other than the minor.

Retirement of next friend.

436. (i) Unless otherwise ordered by the Court, a next friend shall not retire without first procuring a fit person to be put in his place and giving security for the costs already incurred.

(ii) The application for the appointment of a new next friend shall be supported by an affidavit shewing the fitness of the person proposed and also that he has no interest adverse to that of the minor.

Removal of next friend.

437. Where the interest of the next friend of a minor is adverse to that of the minor, or where he is so connected with a defendant whose interest is adverse to that of the minor as to make it unlikely that the minor's interest will be properly protected by him, or where he does not do his duty, or, during the pendency of the suit, ceases to reside within the Federated Malay States, or for any other sufficient cause, application may be made on behalf of the minor or by a defendant for his removal ; and the Court (if satisfied of the sufficiency of the cause assigned) may order the next friend to be removed accordingly.

Stay of proceedings on retirement, removal, or death of next friend.

438. (i) On the retirement, removal, or death of the next friend of a minor, further proceedings shall be stayed until the appointment of a next friend in his place.

(ii) Where the solicitor of such minor omits to take steps, within a reasonable time, to get a new next friend appointed, any person interested in the minor or in the matter at issue may apply to the Court for the appointment of one, and the Court may appoint such person as it thinks fit.

Retirement, removal, or death of guardian for the suit.

439. (i) Where the guardian for the suit desires to retire or does not do his duty or where other sufficient ground is made to appear, the Court may permit such guardian to retire or may remove him and may order him to pay such costs as may have been occasioned to any party by his breach of duty.

(ii) Where the guardian for the suit retires or is removed by the Court or dies during the pendency of the suit, the Court shall appoint a new guardian in his place.

Course to be followed by minor plaintiff or applicant on attaining majority

440. (i) A minor plaintiff, or a minor not a party to a suit on whose behalf an application is pending, shall on attaining majority elect whether he will proceed with the suit or application.

(ii) Where he elects to proceed with the suit or application, he shall apply for an order discharging the next friend and for leave to proceed in his own name.

(iii) The title of the suit or application shall in such case be corrected so as to read thenceforth thus :

"A. B., late a minor, by C. D., his next friend, but now having attained majority."

(iv) Where he elects to abandon the suit or application, he shall, if a sole plaintiff or sole applicant, apply for an order to dismiss the suit or application on repayment of the costs incurred by the defendant or opposite party or which may have been paid by his next friend.

(v) Any application under this section may be made *ex parte* ; and it must be proved by affidavit that the late minor has attained majority.

Where minor co-plaintiff attaining majority desires to repudiate suit.

441. (i) Where a minor co-plaintiff on attaining majority desires to repudiate the suit, he shall apply to have his name struck out as co-plaintiff ; and the Court, if it finds that he is not a necessary party, shall dismiss him from the suit on such terms as to costs or otherwise as it thinks fit.

(ii) Notice of the application shall be served on the next friend, on any co-plaintiff, and on the defendant ; and it must be proved by affidavit that the late minor has attained majority.

(iii) The costs of all parties of such application, and of all or any proceedings theretofore had in the suit, shall be paid by such persons as the Court directs.

(iv) Where the applicant is a necessary party to the suit, the Court may direct him to be made a defendant.

Where suit unreasonable or improper.

442. (i) A minor on attaining majority may, if a sole plaintiff, apply that a suit instituted in his name by a next friend be dismissed on the ground that it was unreasonable or improper.

(ii) Notice of the application shall be served on all the parties concerned ; and the Court, upon being satisfied of such unreasonableness or impropriety, may grant the application and order the next friend to pay the costs of all parties in respect of the application and of anything done in the suit or make such other order as it thinks fit.

Guardian of minor representative of deceased judgment-debtor.

443. Where execution of a decree is applied for against the representative, being a minor, of a deceased party, a guardian for the suit of such minor shall be appointed by the Court, and the decree-holder shall serve on such guardian notice of such application.

Application of this Chapter to persons of unsound mind.

444. The provisions of this Chapter shall, *mutatis mutandis*, apply in the case of persons of unsound mind, adjudged to be so under any law for the time being in force.

Chapter XXXVI.

SUITS BY PAUPERS.

Suits may be brought *in formâ pauperis*.

445. Subject to the following provisions, any suit may be instituted by a pauper.

Explanation.—A person is a "pauper" when he is not possessed of sufficient means to enable him to pay the fee prescribed by law for the plaint in such suit, or, where no such fee is prescribed, when he is not entitled to

property worth one hundred dollars other than his necessary wearing-apparel and the subject-matter of the suit.

What suits excepted.

446. No suit shall be brought by a pauper to recover compensation for libel, slander, abusive language, or assault.

Contents of application.

447. Every application for permission to sue as a pauper shall be in writing and shall contain the particulars required by Section 41 with regard to plaints in suits; a schedule of any movable or immovable property belonging to the applicant, with the estimated value thereof, shall be annexed thereto; and it shall be signed and verified in the manner hereinbefore prescribed for the signing and verification of plaints.

Presentation of application.

448. Notwithstanding anything contained in this Code, the application shall be presented to the Court by the applicant in person.

Examination of applicant.

449. Where the application is in proper form and duly presented, the Court may, if it thinks fit, examine the applicant regarding the merits of the claim and the property of the applicant.

Rejection of application.

450. The Court shall reject an application to sue as a pauper

(*a*) where it is not framed and presented in the manner prescribed by Sections 447 and 448; or

(*b*) where the applicant is not a pauper; or

(*c*) where he has, within the two months next before the presentation of the application, disposed of any property fraudulently or in order to be able to apply for permission to sue as a pauper; or

(*d*) where his allegations do not shew a cause of action; or

(*e*) where he has entered into any agreement with reference to the subject-matter of the proposed suit under which any other person has obtained an interest in such subject-matter.

Notice of day for receiving evidence of applicant's pauperism.

451. Where the Court sees no reason to reject the application on any of the grounds stated in Section 450, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party) for receiving such evidence as the applicant may adduce in proof of his pauperism and for hearing any evidence which may be adduced in disproof thereof.

Examination of witnesses, and decision.

452. (i) On the day so fixed, or as soon thereafter as may be convenient, the Court shall examine the witnesses (if any) produced by either party and may examine the applicant and shall make a memorandum of the substance of their evidence.

(ii) The Court shall also hear any argument which the parties may desire to offer on the question whether, on the face of the application and of the evidence (if any) taken by the Court as herein provided, the application is required by the provisions of Section 450 to be rejected.

(iii) The Court shall then either allow or refuse to allow the applicant to sue as a pauper.

453. Where the application is granted, it shall be numbered and registered and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as a suit instituted under Chapter VI, except that the plaintiff shall not be liable to pay any Court fee (other than fees payable for service of process) in respect of any application, appointment of a solicitor, or other proceeding connected with the suit. Procedure if application granted.

454. The Court may, of its own motion or on application by the defendant, of which at least ten days' notice in writing shall be given to the plaintiff, order the plaintiff to be dispaupered Dispaupering.

(*a*) if he is guilty of vexatious or improper conduct in the course of the suit; or

(*b*) if it appears that his means are such that he ought not to continue to sue as a pauper; or

(*c*) if he has entered into any agreement with reference to the subject-matter of the suit, under which any other person has obtained an interest in such subject-matter.

455. Where the plaintiff succeeds in the suit, the Court shall calculate the amount of Court fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper; and such amount shall be a first charge on the subject-matter of the suit, and shall also be recoverable by the Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable under this Code. Costs where pauper succeeds.

456. Where the plaintiff fails in the suit or is dispaupered, or where the suit is dismissed under Section 95 or Section 96 or Section 101, the Court shall order the plaintiff, or any person made, under Section 24, co-plaintiff to the suit, to pay the Court fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper; and if it find that the suit was frivolous or vexatious, it may also punish the plaintiff with fine not exceeding one hundred dollars or with imprisonment of either description for a term which may extend to six weeks. Procedure where pauper fails.

457. An order of refusal made under Section 452 to allow the applicant to sue as a pauper shall be a bar to any subsequent application of the like nature by him in respect of the same right to sue; but the applicant shall be at liberty to institute a suit in the ordinary manner in respect of such right, provided that he first pays the costs (if any) incurred by the opposite party in opposing his application for leave to sue as a pauper. Refusal to allow applicant to sue as pauper bars subsequent application of like nature.

458. The costs of an application for permission to sue as a pauper and of an enquiry into pauperism are costs in the suit. Costs.

Chapter XXXVII.

INTERPLEADER.

459. Where two or more persons claim adversely to one another the same debt, sum of money, or other property from another person who claims no interest therein other than for charges or costs and who is ready to pay or deliver it to the rightful claimant, such other Where interpleader-suit may be instituted.

person may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to the person to whom the payment or delivery shall be made and of obtaining indemnity for himself.

Provided that where any suit is pending in which the rights of all parties can properly be decided, no such suit of interpleader shall be instituted.

Plaint in such suit.

460. In every suit of interpleader the plaint shall, in addition to the other statements necessary for plaints, state

(*a*) that the plaintiff claims no interest in the subject-matter in dispute other than for charges or costs ;

(*b*) the claims made by the defendants severally ; and

(*c*) that there is no collusion between the plaintiff and any of the defendants.

Payment of thing claimed into Court.

461. Where the thing claimed is capable of being paid into Court or placed in the custody of the Court, the plaintiff shall so pay or place it before he can be entitled to any order in the suit.

Procedure where defendant is suing plaintiff.

462. Where any of the defendants in an interpleader-suit is actually suing the plaintiff in respect of the subject-matter of such suit, the Court in which the suit against the plaintiff is pending shall, on being informed by the Court in which the interpleader-suit has been instituted, stay the proceedings as against him ; and his costs in the suit so stayed may be provided for in such suit ; but if, and in so far as, they are not provided for in that suit, they may be added to his costs incurred in the interpleader-suit.

Procedure at first hearing.

463. (i) At the first hearing the Court may

(*a*) declare that the plaintiff is discharged from all liability to the defendants in respect of the thing claimed, award him his costs, and dismiss him from the suit ; or

(*b*) if it thinks that justice or convenience so require, retain all parties until the final disposal of the suit.

(ii) Where the Court finds that the admissions of the parties or other evidence enable it to do so, it may adjudicate the title to the thing claimed.

(iii) Where such admissions or evidence as aforesaid do not enable the Court so to adjudicate, it may direct

(*a*) that an issue or issues between the parties be framed and tried, and

(*b*) that any claimant be made a plaintiff in lieu of or in addition to the original plaintiff,

and shall proceed to try the suit in the ordinary manner.

Agents and tenants may not institute interpleader-suits.

464. Nothing in this Chapter shall be deemed to enable agents to sue their principals, or tenants to sue their landlords, for the purpose of compelling them to interplead with any persons other than persons making claim through such principals or landlords.

ILLUSTRATIONS.

(*a*) A deposits a box of jewels with B as his agent. C alleges that the jewels were wrongfully obtained from him by A and claims them from B. B cannot institute an interpleader-suit against A and C.

(*b*) A deposits a box of jewels with B as his agent. He then writes to C for the purpose of making the jewels a security for a debt due from himself to C. A afterwards alleges that C's debt is satisfied, and C alleges the contrary. Both claim the jewels from B. B may institute an inter-pleader suit against A and C.

Charge for plaintiff's costs.

465. Where the suit is properly instituted the Court may provide for the costs of the original plaintiff by giving him a charge on the thing claimed or in some other effectual way.

PART IV.

SPECIAL PROCEEDINGS.

Chapter XXXVIII.

SPECIAL CASE.

Power to state case for Court's opinion.

466. (i) Parties claiming to be interested in the decision of any question of fact or law may enter into an agreement in writing stating such question in the form of a case for the opinion of the Court and providing that, upon the finding of the Court with respect to such question,

(*a*) a sum of money fixed by the parties or to be determined by the Court shall be paid by one of the parties to the other of them ; or

(*b*) some property, movable or immovable, specified in the agreement shall be delivered by one of the parties to the other of them ; or

(*c*) one or more of the parties shall do, or refrain from doing, some other particular act specified in the agreement.

(ii) Every case stated under this section shall be divided into consecutively numbered paragraphs and shall concisely state such facts and specify such documents as may be necessary to enable the Court to decide the question raised thereby.

Where value of subject-matter must be stated.

467. Where the agreement is for the delivery of any property, or for the doing, or the refraining from doing, any particular act, the estimated value of the property to be delivered, or to which the act specified has reference, shall be stated in the agreement.

Agreement to be filed and numbered as suit.

468. (i) The agreement, if framed in accordance with the provisions of this Chapter, may be filed in the Court which would have jurisdiction to entertain a suit, the amount or value of the subject-matter of which is the same as the amount or value of the subject-matter of the agreement.

(ii) The agreement, when so filed, shall be numbered and registered as a suit between one or more of the parties claiming to be interested, as plaintiff or plaintiffs, and the other or others of them as defendant or defendants ; and notice shall be given to all the parties to the agreement, other than the party or parties by whom it was presented.

Parties to be subject to Court's jurisdiction.

469. Where the agreement has been filed, the parties to it shall be subject to the jurisdiction of the Court and shall be bound by the statements contained therein.

Hearing and disposal of case.

470. (i) The case shall be set down for hearing as a suit instituted under Chapter VI, the provisions of which shall apply to such suit so far as the same are applicable.

(ii) Where the Court is satisfied, after examination of the parties or after taking such evidence as it thinks fit,

(*a*) that the agreement was duly executed by them, and

(*b*) that they have a *bonâ fide* interest in the question stated therein, and

(*c*) that the same is fit to be decided,

it shall proceed to pronounce judgment thereon in the same way as in an ordinary suit, and upon the judgment so pronounced a decree shall follow.

Chapter XXXIX.

SUMMARY PROCEDURE ON CLAIMS FOR DEBT OR LIQUIDATED DEMANDS.

Institution of summary suits for debts or liquidated demands.

471. (i) In all suits in the Supreme Court, or in any other Court to which this Chapter applies, where the plaintiff seeks only to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising

(*a*) upon a bill of exchange, promissory note, cheque, or bond, or upon a lease or upon any other contract, express or implied, for payment of a liquidated amount of money, or

(*b*) upon a guarantee, where the claim against the principal is in respect of a debt or liquidated demand only, or

(*c*) upon a trust,

the plaint may, if the plaintiff desires to proceed summarily, be headed with the words "Summary Procedure," which heading shall be signed in the manner prescribed for the signature of plaints. In every such case the summons shall be in the form contained in the third schedule, No. 161, or in such other form as the Judicial Commissioners, by notification in the *Gazette*, may from time to time prescribe.

(ii) In any case in which the plaint and summons are in accordance with the provisions of sub-section (i), the defendant shall not appear or defend the suit unless he obtains leave from the Court as hereinafter mentioned so to appear and defend.

(iii) In default of the defendant obtaining such leave or of appearance and defence in pursuance thereof the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons, together with interest at the rate specified (if any) or, if no rate be specified, at the rate of eight per cent. per annum to the date of the decree, and a sum for costs to be fixed by a rule of the Judicial Commissioners published in the *Gazette*, unless the plaintiff claims more than such fixed sum, in which case the costs shall be ascertained in the ordinary way, and such decree may be enforced forthwith.

472. (i) The Court shall, upon application by the defendant, give leave to appear and to defend the suit, upon the defendant paying into Court the sum mentioned in the summons or upon evidence, satisfactory to the Court, which discloses a defence or such facts as the Court may deem sufficient to support the application, and on such terms as to security, framing and recording issues, or otherwise, as the Court thinks fit. Defendant, on payment into Court or on disclosing a defence, to have leave to appear.

(ii) The defendant shall not be required to pay into Court the sum mentioned in the summons or to give security therefor unless the Court thinks his defence not to be *primâ facie* sustainable or feels reasonable doubt as to its good faith.

473. Where in a suit under this Chapter there are several defendants of whom one or more obtain leave to appear and defend and another or others of them fail to obtain such leave, the plaintiff shall be entitled to a decree, as in Section 471 provided, against such as have not obtained leave to appear and defend and may proceed to execution of such decree without prejudice to his right to proceed with the suit against such as have obtained leave to defend. Where some, only, of defendants get leave to defend.

474. Where it appears that the defence set up by the defendant applies only to a part of the plaintiff's claim or that any part of his claim is admitted, the plaintiff shall be entitled forthwith to a decree for such part of his claim as the defence does not apply to or as is admitted, subject to such terms, if any, as to suspending execution or otherwise as the Court may think fit; and the defendant may be allowed to defend as to the residue of the plaintiff's claim. Decree for part of claim.

475. Where in any proceeding under this Chapter it appears that there is included in the plaint a claim not being a debt or liquidated demand in money such as is referred to in Section 471, the Court may, if it thinks fit, forthwith amend the plaint by striking out such claim or may deal with the debt or liquidated demand proper to such plaint as if no other claim had been included in the plaint and allow the suit to proceed as respects the residue of the claim. Improper joinder of claims.

476. After decree the Court may, under special circumstances, set aside the decree and, if necessary, stay or set aside execution and may give leave to appear and defend the suit, if it seems reasonable to the Court so to do, and on such terms as the Court thinks fit. Power to set aside decree.

477. In any proceeding under this Chapter the Court may order Power to order bill, etc., to be deposited with officer of Court.

(*a*) that any bill, note, or other document on which the suit is founded be forthwith deposited with an officer of the Court;

(*b*) that all proceedings be stayed until the plaintiff gives security for the costs thereof.

478. The holder of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise, by reason of such dishonour, as he has under this Chapter for the recovery of the amount of such bill or note. Recovery of cost of noting non-acceptance of dishonoured bill or note.

Procedure in suits under Chapter.

479. Except as provided by Sections 471 to 478 (both inclusive), the procedure in suits under this Chapter shall be the same as the procedure in suits instituted under Chapter VI.

Application of Chapter to Courts of Magistrates.

480. The Resident of a State may from time to time with the approval of the Chief Secretary, by notification in the *Gazette*, apply the provisions of this Chapter to any Court of a Magistrate of the First Class in such State, and may, with such approval as aforesaid, cancel any such notification.

Chapter XL.

PROCEDURE BY WAY OF ORIGINATING SUMMONS.

Originating summons relating to express administration of the estate of a deceased person.

481. (i) The executors or administrators of a deceased person, or any of them, and the trustees under any instrument, or any of them, and any person claiming to be interested in the relief sought as creditor, devisee, legatee, or next-of-kin of a deceased person, or as *cestui que trust* under the trusts of any instrument, or as claiming by assignment or otherwise under any such creditor or other person as aforesaid, may take out as of course an originating summons, returnable in Chambers, for such relief of the nature or kind following as may by the summons be specified and as the circumstances of the case may require, that is to say, the determination, without an administration of the estate or trust, of any of the following questions or matters :

(*a*) any question affecting the rights or interests of any person claiming to be creditor, devisee, legatee, next-of-kin, or *cestui que trust* ;

(*b*) the ascertainment of any class of creditors, legatees, devisees, next-of-kin, or others ;

(*c*) the furnishing of any particular accounts by the executors or administrators or trustees, and the vouching (where necessary) of such accounts ;

(*d*) the payment into Court of any money in the hands of executors or administrators or trustees ;

(*e*) directing the executors or administrators or trustees to do or abstain from doing any particular act in their character as such executors or administrators or trustees ;

(*f*) the approval of any sale, purchase, compromise, or other transaction ;

(*g*) any question arising in the administration of the estate or trust.

(ii) The issue of a summons under this section shall not interfere with or control any power or discretion vested in any executor, administrator, or trustee, except so far as such interference or control may necessarily be involved in the particular relief sought.

Order for administration of movable and immovable property.

482. Any of the persons named in the last preceding section may in like manner apply for and obtain an order for

(*a*) the administration of the movable and immovable property of the deceased ;

(*b*) the administration of the trust.

483. The persons to be served with the summons under the last two preceding sections in the first instance shall be the following, that is to say— Persons to be served.

A. Where the summons is taken out by an executor or administrator or trustee :

(*a*) for the determination of any question under paragraph (*a*), (*e*), (*f*), or (*g*) of Section 481 (i), the persons or one of the persons whose rights or interests are sought to be affected ;

(*b*) for the determination of any question under paragraph (*b*) of Section 481 (i), any member or alleged member of the class ;

(*c*) for the determination of any question under paragraph (*c*) of Section 481 (i), any person interested in taking such accounts ;

(*d*) for the determination of any question under paragraph (*d*) of Section 481 (i), any person interested in such money ;

(*e*) for relief under paragraph (*a*) of Section 482, the residuary legatees or next-of-kin or some of them ;

(*f*) for relief under paragraph (*b*) of Section 482, the *cestuis que trustent* or some of them ;

(*g*) if there are more than one executor or administrator or trustee and they do not all concur in taking out the summons, those who do not concur.

B. Where the summons is taken out by any person other than the executors, administrators, or trustees, the said executors, administrators, or trustees.

484. (i) Any person claiming to be interested under a will or other written instrument may apply by originating summons for the determination of any question of construction arising under the instrument, and for a declaration of the rights of the persons interested. Originating summons relating to questions of construction.

(ii) The Court or a Judge thereof may direct such persons to be served with the summons as it or he may think fit.

(iii) The application shall be supported by such evidence as the Court or Judge may require.

(iv) The Court or Judge shall not be bound to determine any such question of construction, if the question is not one which ought to be determined on an originating summons.

485. Any of the following applications may be made by originating summons or, if made in a suit, by summons : Originating summons relating to new trustees, vesting orders, and funds in Court.

(*a*) an application for the appointment of a new trustee, with or without a vesting or other consequential order ;

(*b*) an application for a vesting order, or other order consequential on the appointment of a new trustee, whether the appointment is made by the Court or by a Judge thereof or out of Court ;

(*c*) an application for a vesting or other consequential order in any case where a decree or order has been passed or made for the sale, conveyance, or transfer of any immovable property or stock, or the suing for or recovering any thing in action ;

(*d*) an application relating to funds paid into Court in a suit or matter.

Other application by originating summons.

486. Any application to the Court in its civil jurisdiction, not being between a plaintiff and defendant and not being in a pending suit or matter, may be by way of originating summons, unless some other mode of procedure for such application is prescribed by written law.

Court not bound to order administration.

487. It shall not be obligatory on the Court or a Judge thereof to pass or make a decree or order, whether on summons or otherwise, for the administration of any trust or of the estate of any deceased person, if the questions between the parties can be properly determined without such decree or order.

Orders which may be made on applications for administration or execution of trusts, where no accounts or insufficient accounts have been rendered.

488. Upon an application for administration or execution of trusts by a creditor or beneficiary under a will, intestacy, or instrument of trust where no accounts, or insufficient accounts, have been rendered, the Court or a Judge thereof may, in addition to the powers already existing,

(*a*) order that the application shall stand over for a certain time and that the executors, administrators, or trustees shall in the meantime render to the applicant a proper statement of their accounts, with an intimation that if this is not done they may be made to pay the costs of the proceedings ;

(*b*) where necessary to prevent proceedings by other creditors, or by persons beneficially interested, pass or make the usual decree or order for administration, with a proviso that no proceedings are to be taken under such decree or order without leave of the Judge in person.

Appointment of new time when summons not served within time.

489. An originating summons, where service is necessary, shall be served eight days before the return thereof ; but, where from any cause an originating summons may not have been served upon any party eight days before the return thereof, an endorsement may be made upon the summons, and upon a copy thereof stamped for service, appointing a new time for the parties not before served to attend at Chambers, and such endorsement shall be initialled by the Registrar, and, where any party has been served before such endorsement, the hearing thereof may, upon the return of the summons, be adjourned to the new time appointed.

Service of originating summons.

490. An originating summons shall be served in the manner prescribed by Chapter VII for service of summons and may, by leave of a Judicial Commissioner to be obtained on summons, be served out of the Federated Malay States.

Chapter XLI.

SUITS RELATING TO PUBLIC CHARITIES.

Where suits relating to public charities may be brought.

491. (i) Where in any State breach is alleged of any express or constructive trust created for public purposes of a charitable or religious nature, or where in any State the direction of the Court is deemed necessary for the administration of any such trust, any public officer nominated in that behalf in writing by the Resident of such State or any two or more persons having an interest in the trust and having obtained the consent in writing of the said Resident may institute a suit in the Supreme Court to obtain a decree

(*a*) removing any trustee ;

(*b*) appointing a new trustee ;

(*c*) vesting any property in a trustee ;

(*d*) declaring what proportion of the trust-property or of the interest therein shall be allocated to any particular object of the trust ;

(*e*) authorizing the whole or any part of the trust-property to be let, sold, mortgaged, or exchanged ;

(*f*) settling a scheme for the management of the trust ; or

(*g*) granting such further or other relief as the nature of the case may require.

(ii) Neither the Resident of the State nor any public officer nominated as aforesaid shall be personally liable for costs in any such suit.

(iii) No Court fees shall be charged in any suit instituted by a public officer under this Chapter.

PART V.

PROVISIONAL REMEDIES.

Chapter XLII.

ARREST AND ATTACHMENT BEFORE JUDGMENT.

ARREST BEFORE JUDGMENT.

Where defendant may be required to furnish security for appearance.

492. Where at any stage of a suit, other than a suit for the possession of immovable property, the Court is satisfied by affidavit or other evidence on oath

(*a*) that the defendant, with intent to delay the plaintiff or to avoid any process of the Court or to obstruct or delay the execution of any decree that may be passed against him,

(1) has absconded or left the jurisdiction of the Court, or

(2) is about to abscond or to leave the jurisdiction of the Court, or

(3) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

(*b*) that the defendant is about to leave the Federated Malay States under circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit,

the Court may issue a warrant to arrest the defendant and bring him before the Court to shew cause why he should not furnish security for his appearance.

Provided that the defendant shall not be arrested if he pays to the officer entrusted with the execution of the warrant any sum specified in the warrant as sufficient to satisfy the plaintiff's claim ; and such sum shall be held in deposit by the Court until the suit is disposed of or until the further order of the Court.

Order for deposit or security.

493. (i) Where the defendant fails to shew such cause, the Court shall order him either to deposit in Court money or other property sufficient to answer the claim against him, or to furnish security for his appearance at any time when called upon while the suit is pending and until satisfaction of any decree that may be passed against him in the suit, or shall make such order as it thinks fit with regard to the sum which may have been paid by the defendant under the proviso to the last preceding section.

(ii) Every surety for the appearance of a defendant shall bind himself to pay, in default of such appearance, any sum of money which the defendant may be ordered to pay in the suit.

Procedure on application by surety to be discharged.

494. (i) A surety for the appearance of a defendant may at any time apply to the Court in which he became such surety to be discharged from his obligation.

(ii) On such application being made the Court shall summon the defendant to appear, or, if it thinks fit, may issue a warrant for his arrest in the first instance.

(iii) On the appearance of the defendant in pursuance of the summons or warrant, or on his voluntary surrender, the Court shall direct that the surety be discharged from his obligation and shall call upon the defendant to find fresh security.

Procedure where defendant fails to furnish security or find fresh security.

495. Where the defendant fails to comply with any order under Section 493 or Section 494, the Court may order that he be detained in the civil prison until the decision of the suit.

Provided that no person shall be detained in prison under this section in any case for a longer period than three months, nor for a longer period than six weeks when the amount or value of the subject-matter of the suit does not exceed five hundred dollars.

Provided further that no person shall be detained in prison under this section after he has complied with such order.

Subsistence of defendants arrested.

496. The provisions of Section 332 as to allowances payable for the subsistence of judgment-debtors shall apply to all defendants arrested under this Chapter.

ATTACHMENT BEFORE JUDGMENT.

Where defendant may be required to furnish security for production of property.

497. (i) Where at any stage of a suit the Court is satisfied by affidavit or other evidence on oath that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him,

(*a*) is about to dispose of the whole or any part of his property or to remove the same from the jurisdiction of the Court in which the suit is pending, or

(*b*) has quitted, or is about to quit, the jurisdiction of the Court, leaving therein property belonging to him,

the Court may direct the defendant, within a time to be fixed by the Court, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the same or such portion thereof as may be sufficient to satisfy the decree, or to appear and shew cause why he should not furnish security.

(ii) The plaintiff shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

(iii) The Court may also in the order direct the conditional attachment of the whole or any portion of the property so specified.

Attachment where cause not shown or security not furnished.

498. (i) Where the defendant fails to shew cause why he should not furnish security, or fails to furnish the security required, within the time fixed by the Court, the Court may order that the property specified, or such portion thereof as appears sufficient to satisfy any decree which may be passed in the suit, be attached.

(ii) Where the defendant shews such cause or furnishes the required security, and the property specified or any portion of it has been attached, the Court shall order the attachment to be withdrawn.

Mode of making attachment.

499. The attachment shall be made in the manner provided for the attachment of property in execution of a decree.

Investigation of claims to property attached before judgment.

500. Where any claim is preferred to property attached before judgment, such claim shall be investigated in the manner hereinbefore provided for the investigation of claims to property attached in execution of a decree for the payment of money.

Withdrawal of attachment when security furnished or suit dismissed.

501. Where an order is made for attachment before judgment, the Court shall order the attachment to be withdrawn when the defendant furnishes the security required, together with security for the costs of the attachment, or when the suit is dismissed.

Attachment not to effect rights of strangers, nor bar decree-holder from applying for sale.

502. Attachment before judgment shall not affect the rights, existing prior to the attachment, of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

Property attached under Chapter need not be re-attached in execution of decree

503. Where property is under attachment by virtue of the provisions of this Chapter and a decree is subsequently passed in favour of the plaintiff, it shall not be necessary upon an application for execution of such decree to apply for a re-attachment of the property.

COMPENSATION FOR IMPROPER ARRESTS OR ATTACHMENTS.

Compensation for obtaining arrest or attachment on insufficient grounds.

504. (i) Where, in any suit in which an arrest or attachment before judgment has been effected,

(*a*) it appears to the Court that such arrest or attachment was applied for on insufficient grounds, or

(*b*) the suit of the plaintiff fails, and it appears to the Court that there was no reasonable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff by its order such amount, not exceeding one thousand dollars, as it deems a reasonable compensation to the defendant for the expense or injury caused to him by the arrest or attachment.

Provided that a Court shall not award under this section a larger amount than it might decree in a suit for compensation.

(ii) An award under this section shall bar any suit for compensation in respect of such arrest or attachment.

Chapter XLIII.

TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

TEMPORARY INJUNCTIONS.

Cases in which temporary injunction may be granted.

505. Where in any suit it is proved by affidavit or other evidence on oath

(*a*) that any property in dispute in a suit is in danger of being wasted, damaged, or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(*b*) that the defendant threatens, or intends, to remove or dispose of his property with a view to defraud his creditors,

the Court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal, or disposition of the property as the Court thinks fit until the suit is disposed of or until further orders.

Injunction to restrain breach of contract or other injury.

506. (i) In any suit for restraining the defendant from committing a breach of contract or other injury of any kind, whether compensation is claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit and either before or after judgment, apply to the Court for a temporary injunction to restrain the defendant from committing the breach of contract or injury complained of, or any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.

(ii) The Court may by order grant such injunction on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as the Court thinks fit.

(iii) In case of disobedience to an injunction granted under this section or Section 505 or of breach of any of the terms imposed, the

Court which granted the injunction may order the property of the person guilty of such disobedience or breach to be attached and may also order such person to be detained in the civil prison for a term not exceeding six months unless in the meantime the Court directs his release.

(iv) No attachment under this section shall remain in force for more than one year, at the end of which time, if the disobedience or breach continues, the property attached may be sold, and out of the proceeds the Court may award such compensation as it thinks fit and shall pay the balance, if any, to the party entitled thereto.

Before granting injunction Court to direct notice to opposite party.

507. The Court shall in all cases, except where it appears that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice of the application for the same to be given to the opposite party.

Order for injunction may be discharged, varied, or set aside.

508. Any order for an injunction may be discharged or varied or set aside by the Court on application made thereto by any party dissatisfied with such order.

Injunction to corporation binding on its members and officers.

509. An injunction directed to a corporation is binding not only on the corporation itself but also on all members and officers of the corporation whose personal action it seeks to restrain.

Compensation for issue of injunction on insufficient grounds.

510. (i) Where

(*a*) it appears to the Court that an injunction which it has granted was applied for on insufficient grounds, or

(*b*) after the issue of the injunction the suit of the plaintiff fails by default or otherwise, and it appears to the Court that there was no reasonable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff by its order such sum, not exceeding one thousand dollars, as it deems a reasonable compensation to the defendant for the expense or injury caused to him by the issue of the injunction.

Provided that a Court shall not award under this section a larger amount than it might decree in a suit for compensation.

(ii) An award under this section shall bar any suit for compensation in respect of the issue of the injunction.

INTERLOCUTORY ORDERS.

Order for interim sale.

511. The Court may, on the application of any party to a suit, order the sale, by any person named in such order, and in such manner and on such terms as it thinks fit, of any movable property being the subject of such suit which is subject to speedy and natural decay or which for any other just and sufficient cause it may be desirable to have sold at once.

Order for detention, preservation, inspection, etc., of subject-matter of suit.

512. (i) The Court may, on the application of any party to a suit, and on such terms as it thinks fit,

(*a*) make an order for the detention, preservation, or inspection of any property which is the subject-matter of such suit or as to which any question may arise therein ;

(*b*) for all or any of the purposes aforesaid, authorize any person to enter upon or into any land or building in the possession of any other party to such suit ; and

(*c*) for all or any of the purposes aforesaid, authorize any samples to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

(ii) The provisions hereinbefore contained as to execution of process shall apply, *mutatis mutandis*, to persons authorized to enter under this section.

Application for such orders to be after notice.

513. (i) An application by the plaintiff for an order under Section 511 or Section 512 may be made after notice in writing to the defendant at any time after institution of the suit.

(ii) An application by the defendant for a like order may be made after notice in writing to the plaintiff at any time after service of the summons.

Deposit of money, etc., in Court.

514. Where the subject-matter of a suit is money or some other thing capable of delivery and any party thereto admits that he holds such money or other thing as a trustee for another party, or that it belongs or is due to another party, the Court may order the same to be deposited in Court or delivered to such last-named party, with or without security, subject to the further direction of the Court.

Chapter XLIV.

APPOINTMENT OF RECEIVERS.

Power of Court to appoint receivers.

515. (i) Where it appears to the Court to be just and convenient, the Court may by order

(*a*) appoint a receiver of any property, whether before or after decree ;

(*b*) remove any person from the possession or custody of the property ;

(*c*) commit the same to the possession, custody, or management of the receiver ; and

(*d*) grant to the receiver, not being a salaried officer of the Government other than an official receiver, such fee or commission on the rents and profits of the property by way of remuneration as the Court thinks fit, and confer upon him all such powers as to bringing and defending suits and for the realization, management, protection, preservation, and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of documents, as the owner himself has or such of those powers as the Court thinks fit.

(ii) Nothing in this section authorizes the Court to remove from the possession or custody of property any person whom any party to the suit has not a present right so to remove.

Duties of receiver.

516. Every receiver so appointed shall

(*a*) furnish such security (if any) as the Court thinks fit, duly to account for what he shall receive in respect of the property ;

(*b*) submit his accounts at such periods and in such form as the Court directs ;

(*c*) pay the amount due from him as the Court directs ; and

(*d*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

Enforcement of receiver's duties.

517. Where a receiver

(*a*) fails to submit his accounts at such periods and in such form as the Court directs, or

(*b*) fails to pay the amount due from him as the Court directs, or

(*c*) occasions loss to the property by his wilful default or gross negligence,

the Court may direct his property to be attached and may sell such property and may apply the proceeds to make good any amount found to be due from him or any loss occasioned by him and shall pay the balance, if any, to the receiver.

Power of Resident to appoint official receivers.

518. (i) The Resident of a State may, with the approval of the Chief Secretary, from time to time by notification in the *Gazette* appoint for such State an official receiver, or official receivers, for the purposes of this Code.

(ii) Such official receiver or receivers may be appointed either by name or by office, and one official receiver may be appointed for a whole State or different official receivers for the different districts of a State.

(iii) From and after the appointment of any such official receiver for any State or district, no Court acting under this Code shall appoint any person, other than the official receiver for such State or district, to be a receiver within such State or district, as the case may be, for any of the purposes of this Code.

(iv) All remuneration allowed by the Court to any official receiver shall be paid into the Treasury and shall form part of the public revenue.

(v) The Resident of a State may, with the approval of the Chief Secretary, from time to time by notification in the *Gazette* fix scales of remuneration to be allowed within such State to official receivers, and thereupon such remuneration, and no other, shall be allowed within such State by the Courts.

(vi) No official receiver shall be required by any Court to give security ; but the Resident of a State may require any official receiver within such State to give such security as he may think fit.

(vii) In each State there shall be paid to official receivers such salaries as may be fixed by the Resident of the State, with the approval of the Chief Secretary.

(viii) Every official receiver shall, in any matter in which he is appointed a receiver, conform to the directions of the Court which appointed him.

PART VI.

REMEDIES OF LANDLORDS.

Chapter XLV.

TERMINATION OF TENANCIES AND DISTRESS FOR RENT.

NOTICE TO QUIT.

Expiration of notice.

519. Where rent due by the tenant, otherwise than for a term certain, of any house or premises to the landlord thereof has remained unpaid for not less than fifteen days after payment thereof became due and still remains unpaid, then, in the absence of an express stipulation between the parties to the contrary, any notice to quit given by the landlord to the tenant shall, if the length thereof be otherwise sufficient, expire on such day as may by the terms of the notice be appointed for the expiration thereof, whether such day coincide with the termination of some period of the tenancy or not.

DISTRESS.

Interpretation.

520. In this Chapter, unless inconsistent with the context, "Bailiff" includes any person authorized by a Court to execute a warrant of distress under this Chapter, and "officer in possession" means the person lawfully in possession of property under a warrant of attachment in execution of a decree.

No levy of distress except under this Chapter.

521. No distress shall be levied for arrears of rent except under the provisions of this Chapter. But nothing in this Chapter applies to

(*a*) rent due to any of the Rulers of the Federated Malay States or to the Government of the Federated Malay States or of any of them;

(*b*) rent due for a period anterior to the twelve completed months of the tenancy immediately preceding the date of the application under this Chapter.

Who may apply.

522. Any person claiming to be entitled to arrears of rent of any house or premises may apply for a warrant of distress as hereinafter mentioned.

Form of application.

523. The application shall be by affidavit and may be made to any Court which would have jurisdiction to hear and determine a suit for the arrears claimed. It shall be entitled as a suit, adding the word "Distress," and the landlord shall be plaintiff and the tenant defendant, and it shall be in the form in the third schedule, with such variations as circumstances may require.

Attorney may apply.

524. The application may be presented by any attorney or agent authorized in writing to levy distress. The document appointing such attorney or agent may be either general or for the particular case. Such power may be in the form in the third schedule, with such variations as circumstances may require, and shall be produced at the time of application.

Issue of warrant.

525. The Court may order a warrant of distress to be issued or may refuse the application. If a warrant is issued, it shall be returnable within six days and shall be in the form in the third schedule, with such variations as circumstances may require.

What may be seized.

526. (i) In pursuance of such warrant the Bailiff shall seize the movable property found in or upon the house or premises mentioned in the warrant and in the apparent possession of the defendant or such part thereof as may in the Bailiff's judgment be sufficient to cover the amount of the said rent together with the costs of the said distress.

(ii) The Bailiff shall not seize

(*a*) things in actual use in the hands of a person at the time of the seizure ;

(*b*) tools and implements not in use, where there is other movable property in or upon the house or premises sufficient to cover such amount and costs ;

(*c*) goods of temporary guests at an inn ;

(*d*) goods of lodgers in a furnished lodging-house ;

(*e*) the debtor's necessary wearing-apparel ;

(*f*) goods in the custody of the law ;

(*g*) goods delivered to a person exercising a public trade to be carried, wrought, worked up, or managed in the way of his trade.

Power to impound or remove.

527. The Bailiff may impound or otherwise secure the property seized in or upon the premises chargeable with the rent or, if necessary, remove the same.

Inventory and estimate of value.

528. On seizing any property under Section 526, the Bailiff shall make an inventory of such property and an approximate valuation thereof and shall give a notice in writing in the form in the third schedule, with such variations as circumstances may require, to the defendant, if he be upon the premises, or to any person who may be there on the defendant's behalf ; and, if there shall be no such person on the premises, the Bailiff shall post the notice in some conspicuous place on the premises and shall, as soon as may be, file in Court copies of the said inventory, valuation, and notice. Such notice shall state the date of the intended sale.

Application to discharge.

529. (i) The defendant, or any other person alleging himself to be the owner of any property seized under this Chapter, or the duly constituted attorney of such defendant or other person, may at any time within five days from such seizure, on twenty-four hours' notice to the plaintiff setting out the ground on which the claim is founded, apply to the Court from which the warrant of distress issued to discharge or suspend the warrant or to release a distrained article, and the Court may discharge or suspend the warrant or release such article accordingly upon such terms as it may think fit.

(ii) The person against whom an order under this section is made in respect of property seized may institute a suit to establish the right which he claims in respect of such property, but, subject to the result of such suit, if any, the order shall be conclusive.

When property shall be sold.

530. (i) In default of any order to the contrary, the distrained property shall be sold on the day and at the place mentioned in the notice. All sales under this Chapter shall be made by public auction between the hours of 8 a.m. and 6 p.m., and notice of every such sale shall be posted at the door of the Court.

Penalty.

(ii) Any person making or abetting a sale in contravention of the provisions of this section shall be liable, on conviction before the Court of a Magistrate, to a fine not exceeding one hundred dollars.

Property exceeding one hundred dollars to be sold by licensed auctioneer.

531. Where the approximate valuation of the property seized exceeds one hundred dollars, the sale shall be conducted by an auctioneer licensed to conduct sales under the Auction Sales Enactments, 1905, or other statutory provision for the licensing of auctioneers, and in other cases by the Bailiff. For the purposes of sale the distrained property may be removed to the auctioneer's sale room or other suitable place, and any property remaining unsold after satisfaction of the distress and the expenses thereof shall be returned without delay to the place from which it was removed.

Application of proceeds of sale.

532. The Bailiff shall apply the proceeds of sale, first in payment of the costs of the distress, then in satisfaction of the debt, and the surplus (if any) shall be returned to the defendant. The Bailiff shall keep a record of all sums so received and of the application thereof.

Provision for distress by one of joint owners.

533. Where a right to distrain accrues to persons jointly or together interested in any premises, such right may be exercised by any one of such persons in his own name and the names of those jointly or together interested with him, and the levy shall be a complete discharge to the defendant for the amount recovered; but the Judge may in any case require the party so applying to produce a written authority to distrain, signed by the other persons jointly or together interested with him.

Representative or fiduciary capacity of person issuing distress.

534. Where a right to recover arrears of rent accrues to persons in a representative or fiduciary capacity, as in the case of executors, administrators, guardians of minors, committees of lunatics, receivers, the official assignee, chargees in possession, or trustees, such persons may distrain under the provisions of this Chapter for the rent due, whether the same accrued due before or after the date on which they acquired such representative or fiduciary capacity.

Lessee against under-lessee.

535. Lessees may distrain against under-lessees.

Distress after term.

536. Arrears of rent may be distrained for after the end or determination of any term or tenancy at will in the same manner as if such term or tenancy had not been ended or determined; provided that such distress be made during the continuance of the possession of the tenant from whom the arrears are due.

Landlord's claim to be satisfied.

537. No movable property shall be removed from any premises under any warrant of execution from any Court, other than warrants for the execution of decrees in favour of the Chief Secretary or of any of the Federated Malay States or the Ruler thereof or the Government of the said States or of any of them, till the claim for

the rent due to the landlord, or lessor, or person entitled to receive the rent, is satisfied; provided that such claim shall not in any case exceed the amount due for the last six months' rent.

Procedure where property is already under seizure.

538. Where movable property otherwise liable to distress for rent is at the time of the issue of any warrant of distress, or thereafter before seizure under such warrant, seized under any warrant of execution from any Court, the Bailiff shall not seize such movable property but shall, unless both warrants are in the hands of the same officer, deliver a copy of the warrant of distress to the officer in possession, who shall (except where the warrant of execution is for the execution of a decree in favour of the Chief Secretary or of any of the Federated Malay States or the Ruler thereof or the Government of the said States or of any of them) out of the first moneys to arise by any sale of such movable property, after payment of the expenses of such sale, pay to the Bailiff the amount mentioned in such warrant of distress with the costs of the same; provided that if the amount mentioned in such warrant of distress shall exceed the amount due for six months' rent last past, the amount of six months' rent and costs, and no more, shall be paid on the distress.

Notice by officer in possession.

539. The officer in possession, upon receiving such copy of the warrant of distress, or upon any warrant of distress being delivered to him for levy, shall notify the decree-holder or his solicitor and shall also (by delivering a notice in writing upon the premises in which the property was seized) notify the judgment-debtor of the receipt of such warrant of distress and the amount claimed thereunder; and such decree-holder or judgment-debtor, or either of them, may apply to the Court to discharge or suspend the warrant of distress within the time and in the manner provided by this Chapter for applications to discharge or suspend warrants of distress.

Officer in possession to give notice of payment off of execution.

540. Where any execution is paid off after service of a copy of a warrant of distress upon the officer in possession, such officer shall forthwith, before giving up possession or leaving the premises, give notice thereof to the Bailiff.

Tenant evading distress by removal of goods.

541. (i) If any tenant or lessee, or person in possession or occupation, of any premises on which an arrear of rent is due, recoverable by distress, shall carry away, or cause or permit to be carried away, from the premises any property liable to be seized for such rent, so as to prevent or hinder the distraint of the same, a Judge may, on a summary application supported by affidavit, authorize the officer executing a warrant of distress and the persons acting under him to follow, take, and seize such property under the warrant of distress wherever it may be found within thirty days from the day of removal, exclusive of the day of removal, and to deal with such property as if it had been found on the premises distrained and, if advisable, to replace the same on the premises from which it may have been removed. Provided that an officer executing a warrant of distress may, without such authority, follow and seize any such property found by him in the act of being removed from any such premises and before the same is placed in any other house or building.

(ii) An application and an authority under this section may be in the forms in the third schedule, with such variations as circumstances may require.

Goods removed sold *bonâ fide*.

542. Where such property, or any part thereof, so carried away has been sold *bonâ fide* and for a sufficient consideration, before or after removal from the premises distrained, to any person not knowing nor having the means of knowing that the same was liable to be distrained for rent or was carried away so as to prevent or hinder the landlord or lessor from distraining, the same, or so much thereof as shall have been so sold, shall not be seized or, if seized, shall be restored by the officer or Bailiff distraining.

Deserted premises.

543. (i) Where the rent reserved in respect of demised premises is a full three-fourths of the yearly value of the demised premises, and where neither the value of the premises by the year nor the rent payable in respect of the tenancy by the year exceeds three hundred dollars, if the tenant shall be in arrear for two months and shall desert the demised premises and leave the same uncultivated or unoccupied so that no sufficient distress can be had to satisfy the arrears of rent, the Court of a Magistrate of the First Class may, on the application of the landlord or lessor or his agent, supported by affidavit, make an order authorizing the Bailiff to enter on the premises, breaking any doors, windows, or gates (if necessary) and, if the premises are found to be deserted with no sufficient distress therein, to take charge thereof and to affix a notice thereon in a conspicuous place that, unless cause to the contrary is shewn before the Court within ten days, the premises will be given over to the applicant ; and, if no such cause is shewn, the Court may, on proof of the fact of desertion, of non-payment of at least two months' rent last due, of want of sufficient distress, and that the applicant is the landlord or lessor of the premises, make an order directing the Bailiff to put the applicant in possession of the premises, and the demise shall become void.

(ii) An application and an order under this section may be in the forms in the third schedule, with such variations as circumstances may require.

PART VII.

APPEALS.

Chapter XLVI.

APPEALS IN ORDINARY FORM.

Scope of Chapter.

544. (i) Nothing in this Chapter shall affect the procedure on appeals from the Court of a Judicial Commissioner to the Court of Appeal.

(ii) Appeals from the Court of a Penghulu to the Court of a Magistrate of the First Class shall be heard in a summary manner and with as little formality as possible. The procedure at present in force in such appeals shall continue in force, subject to any

amendments which may from time to time be directed by the Judicial Commissioners.

(iii) The succeeding provisions of this Chapter relate to appeals from the decisions of the Lower Civil Courts to the Court of a Judicial Commissioner.

Interpretation.

545. In this Chapter the term "decree" includes "order," and the procedure prescribed shall, so far as may be, apply to orders made under this Code.

Limit of time for appealing.

546. No appeal shall be brought after the expiration of one month from the time when the decision appealed against was pronounced. Provided that a Judicial Commissioner may, if he considers that special circumstances render an extension just, give leave to appeal within such extended time after the expiration of such one month as he may think fit.

Form of appeal. What to accompany memorandum.

547. (i) Every appeal shall be preferred in the form of a memorandum in writing signed by the appellant or his solicitor and presented to the appellate Court. The memorandum shall be accompanied by a copy of the decree appealed against and (unless the appellate Court dispenses therewith) of the judgment on which it is founded and of the certificate of the grounds of such judgment furnished under Section 201.

(ii) The memorandum shall set forth, concisely and under distinct heads, the grounds of objection to the decree appealed against, without any argument or narrative; and such grounds shall be numbered consecutively.

Appellant confined to grounds set out.

548. The appellant shall not, except by leave of the Court, urge or be heard in support of any ground of objection not set forth in the memorandum of appeal; but the Court in deciding the appeal shall not be confined to the grounds of objection set forth in the memorandum of appeal or taken by leave of the Court under this section.

Provided that the Court shall not rest its decision on any other ground unless the party who may be affected thereby has had sufficient opportunity of contesting the case on that ground.

Rejection or amendment of memorandum.

549. (i) Where the memorandum of appeal is not drawn up in the manner hereinbefore prescribed, it may be rejected or be returned to the appellant for the purpose of being amended within a time to be fixed by the Court or be amended then and there.

(ii) Where the Court rejects any memorandum, it shall record the reasons for such rejection.

(iii) Where a memorandum of appeal is amended, the Judge shall sign or initial the amendment.

One of several plaintiffs or defendants may obtain reversal of whole decree if it proceed on ground common to all.

550. Where there are more plaintiffs or more defendants than one in a suit, and the decree appealed against proceeds on any ground common to all the plaintiffs or to all the defendants, any one of the plaintiffs or of the defendants may appeal against the whole decree, and thereupon the appellate Court may reverse or modify the decree in favour of all the plaintiffs or defendants, as the case may be.

STAY OF PROCEEDINGS AND OF EXECUTION.

Order for stay of execution.

551. (i) An appeal shall not operate as a stay of proceedings under the decree appealed against except in so far as the appellate Court may order, nor shall execution of a decree be stayed by reason only of an appeal having been preferred against the decree; but the appellate Court may for sufficient cause order stay of execution of such decree.

(ii) Where an application is made for stay of execution of an appealable decree before the expiration of the time allowed for appealing therefrom, the Court which passed the decree may on sufficient cause being shewn order the execution to be stayed.

(iii) No order for stay of execution shall be made under this section unless the Court making it is satisfied

(*a*) that substantial loss may result to the party applying for stay of execution unless the order is made;

(*b*) that the application has been made without unreasonable delay; and

(*c*) that security has been given by the applicant for the due performance of such decree as may ultimately be binding upon him.

(iv) Notwithstanding anything contained in sub-section (iii) the Court may make an *ex parte* order for stay of execution pending the hearing of the application.

Security in case of order for execution of decree appealed against.

552. (i) Where an order is made for the execution of a decree against which an appeal is pending, the Court which passed the decree shall, on sufficient cause being shewn by the appellant, require security to be furnished for the restitution of any property which may be or has been taken in execution of the decree, or for the payment of the value of such property, and for the due performance of the decree of the appellate Court; or the appellate Court may for like cause direct the Court which passed the decree to take such security.

(ii) Where an order has been made for the sale of immovable property in execution of a decree and an appeal is pending against such decree, the sale shall on the application of the judgment-debtor to the Court which made the order be stayed, on such terms as to giving security or otherwise as the Court thinks fit, until the appeal is disposed of.

No security to be required from the Government or from public officers.

553. No such security as is mentioned in Sections 551 and 552 shall be required from the Chief Secretary or from a State or from any public officer sued in respect of an act alleged to be done by him in his official capacity.

PROCEDURE ON ADMISSION OF MEMORANDUM OF APPEAL.

Registration of memorandum of appeal.

554. (i) Where a memorandum of appeal is admitted, the appellate Court or the proper officer of that Court shall endorse thereon the date of presentation and shall register the appeal in a book to be kept for the purpose.

(ii) Such book shall be called the Register of Civil Appeals.

Appellate Court may require appellant to furnish security for costs.

555. (i) The appellate Court may in its discretion, either before the respondent is called upon to appear and answer or afterwards on the application of the respondent, require from the appellant security for the costs of the appeal, or of the original suit, or of both :

Provided that the Court shall require such security in all cases in which the appellant is residing out of the Federated Malay States and is not possessed of any sufficient immovable property within the Federated Malay States or within the Colony other than the property (if any) to which the appeal relates.

(ii) Where such security is not furnished within such time as the Court orders, the Court shall reject the appeal.

(iii) Where such security is furnished, any costs for which a surety may have rendered himself liable may be recovered from him in execution of the decree of the appellate Court in the same manner as if he were the appellant.

Power to dismiss appeal without sending notice to lower Court.

556. (i) The appellate Court, after sending for the record if it thinks fit so to do, and after fixing a day for hearing the appellant or his solicitor and hearing him accordingly if he appears on that day, may dismiss the appeal without sending notice of the appeal to the Court against whose decree the appeal is preferred and without serving notice on the respondent or his solicitor.

(ii) If on the day fixed under sub-section (i), or on any other day to which the hearing may be adjourned, the appellant does not appear in person or by his solicitor when the appeal is called on for hearing, the Court may make an order that the appeal be dismissed.

(iii) The dismissal of an appeal under this section shall be notified to the Court against whose decree the appeal is preferred.

Day for hearing appeal.

557. (i) Unless the appellate Court dismisses the appeal under the last preceding section, it shall fix a day for hearing the appeal.

(ii) Such day shall be fixed with reference to the current business of the Court, the place of residence of the respondent, and the time necessary for the service of the notice of appeal, so as to allow the respondent sufficient time to appear and answer the appeal on such day.

Appellate Court to give notice to Court whose decree appealed against.

558. (i) Where the appeal is not dismissed under Section 556, the appellate Court shall send notice of the appeal to the Court against whose decree the appeal is preferred.

(ii) Where the appeal is from a Court the records of which are not deposited in the appellate Court, the Court receiving such notice shall send with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the appellate Court.

(iii) Either party may apply in writing to the Court against whose decree the appeal is preferred, specifying any of the papers in such Court of which he requires copies to be made ; and copies of such papers shall be made at the expense of, and given to, the applicant.

Publication and service of notice of day for hearing appeal.

559. (i) Notice of the day fixed under Section 557 shall be posted up in the appellate Court-house, and a like notice shall be sent by the appellate Court to the Court against whose decree the appeal is

preferred and shall be served on the respondent or on his solicitor in the appellate Court in the manner provided in Chapter VII for the service on a defendant of a summons to appear and answer ; and all the provisions applicable to such summons, and to proceedings with reference to the service thereof, shall apply to the service of such notice.

(ii) Instead of sending the notice to the Court against whose decree the appeal is preferred, the appellate Court may itself cause the notice to be served on the respondent or his solicitor under the provisions above referred to.

Contents of notice.

560. The notice to the respondent shall declare that, if he does not appear in the appellate Court on the day so fixed, the appeal will be heard *ex parte*.

PROCEDURE ON HEARING.

Order of hearing.

561. (i) On the day fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal.

(ii) The Court shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.

Where appellant, or respondent, does not appear.

562. (i) Where on the day fixed, or on any other day to which the hearing may be adjourned, the appellant does not appear in person or by his solicitor when the appeal is called on for hearing, the Court may make an order that the appeal be dismissed.

(ii) Where the appellant appears and the respondent does not appear, the appeal shall be heard *ex parte*.

Where notice not served in consequence of appellant's failure to deposit cost.

563. Where on the day fixed, or on any other day to which the hearing may be adjourned, it is found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit, within the period fixed by the Court, the sum required to defray the cost of serving the notice, the Court may make an order that the appeal be dismissed.

Provided that no such order shall be made, although the notice has not been served upon the respondent, if on any such day the respondent appears in person or by a solicitor when the appeal is called on for hearing.

Re-admission of appeal dismissed for default.

564. Where an appeal is dismissed under Section 556 sub-section (ii), Section 562, or Section 563, the appellant may apply to the appellate Court for the re-admission of the appeal ; and, where it is proved that he was prevented by any sufficient cause from appearing when the appeal was called on for hearing or from depositing the sum so required, the Court shall re-admit the appeal on such terms as to costs or otherwise as it thinks fit.

Power to adjourn hearing and direct persons appearing interested to be made respondents.

565. Where it appears to the Court at the hearing that any person who was a party to the suit in the Court against whose decree the appeal is preferred, but who has not been made a party to the appeal, is interested in the result of the appeal, the Court may adjourn the hearing to a future day to be fixed by the Court and direct that such person be made a respondent.

Re-hearing on application of respondent against whom *ex parte* decree made.

566. Where an appeal is heard *ex parte* and judgment is given against the respondent, he may apply to the appellate Court to re-hear the appeal; and, if he satisfies the Court that the notice was not duly served or that he was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Court shall re-hear the appeal on such terms as to costs or otherwise as it thinks fit to impose upon him.

Upon hearing, respondent may object to decree as if he had preferred separate appeal.

567. (i) Any respondent, though he may not have appealed against any part of the decree, may upon the hearing not only support the decree on any of the grounds decided against him in the Court below but take any objection to the decree which he could have taken by way of appeal, provided that he has filed such objection in the appellate Court within one month from the date of the service on him or his solicitor under Section 559 of notice of the day fixed for hearing the appeal, or within such further time as the appellate Court may see fit to allow.

(ii) Such objection shall be in the form of a memorandum, and the provisions of Section 547, in so far as they relate to the form and contents of the memorandum of appeal, shall apply thereto.

(iii) Unless the respondent files with the objection a written acknowledgment from the party who may be affected by such objection or his solicitor of having received a copy thereof, the appellate Court shall cause such a copy to be served, as soon as may be after the filing of the objection, on such party or his solicitor at the expense of the respondent.

(iv) The provisions of Chapter XLVII shall, so far as they can be made applicable, apply to an objection under this section.

Remand of case by appellate Court.

568. Where the Court against whose decree an appeal is preferred has disposed of the suit upon a preliminary point and the decree is reversed in appeal, the appellate Court may, if it thinks fit, by order remand the case, and may further direct what issue or issues shall be tried in the case so remanded, and shall send a copy of its judgment and order to the Court against whose decree the appeal is preferred with directions to re-admit the suit under its original number in the register of civil suits and proceed to determine the suit; and the evidence, if any, recorded during the original trial shall, subject to all just exceptions, be evidence during the trial after remand.

Order for new trial.

569. If upon the hearing of any appeal it shall appear to the appellate Court that a new trial ought to be had, the appellate Court may, if it thinks fit, order that the decree shall be set aside and that a new trial be had.

Where evidence on record sufficient, appellate Court may determine suit.

570. Where the evidence upon the record is sufficient to enable the appellate Court to pronounce judgment, the appellate Court may, after resettling the issues, if necessary, finally determine the suit, notwithstanding that the judgment of the Court against whose decree the appeal is preferred has proceeded wholly upon some ground other than that on which the judgment of the appellate Court proceeds.

Where appellate Court may frame issues and refer them for trial to Court whose decree appealed against.

571. Where the Court against whose decree the appeal is preferred has omitted to frame or try any issue, or to determine any question of fact, which appears to the appellate Court essential to the right decision of the suit upon the merits, the appellate Court may, if necessary, frame issues and refer the same for trial to the Court against whose decree the appeal is preferred and in such case shall direct such Court to take the additional evidence required ; and such Court shall proceed to try such issues and shall return the evidence to the appellate Court together with its findings thereon and the reasons therefor.

Findings and evidence to be put on record.

572. (i) Such evidence and findings shall form part of the record in the suit ; and either party may, within a time to be fixed by the appellate Court, present a memorandum of objections to any finding.

(ii) After the expiration of the period so fixed for presenting such memorandum the appellate Court shall proceed to determine the appeal.

Production of additional evidence in appellate Court.

573. (i) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the appellate Court. But if

(*a*) the Court against whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or

(*b*) the appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause,

the appellate Court may allow such evidence or document to be produced or witness to be examined.

(ii) Whether additional evidence is allowed by the appellate Court to be produced, the Court shall record the reason for its admission.

Mode of taking additional evidence.

574. Wherever additional evidence is allowed to be produced, the appellate Court may either take such evidence or direct the Court against whose decree the appeal is preferred, or any other subordinate Court, to take such evidence and to send it when taken to the appellate Court.

Points to be defined and recorded.

575. Where additional evidence is directed or allowed to be taken, the appellate Court shall specify the points to which the evidence is to be confined and record on its proceedings the points so specified.

JUDGMENT IN APPEAL.

Judgment where and when pronounced.

576. The appellate Court, after hearing the parties or their solicitors and referring to any part of the proceedings whether on appeal or in the Court against whose decree the appeal is preferred, to which reference may be considered necessary, shall pronounce judgment in open Court either at once or on some future day, of which notice shall be given to the parties or their solicitors.

What judgment may direct.

577. The judgment may be for confirming, varying, or reversing the decree against which the appeal is preferred, or, if the parties to the appeal agree as to the form which the decree in appeal shall take, the appellate Court may pass a decree accordingly.

578. No decree shall be reversed or substantially varied, nor shall any case be remanded, in appeal on account of any misjoinder of parties or causes of action or any error, defect, or irregularity in any proceedings in the suit not affecting the merits of the case or the jurisdiction of the Court. No reversal, variation, or remand for error or irregularity not affecting merits or jurisdiction.

DECREE IN APPEAL.

579. (i) The decree of the appellate Court shall bear date the day on which the judgment was pronounced. Date and contents of decree.

(ii) The decree shall contain the number of the appeal, the names and descriptions of the appellant and respondent, and a clear specification of the relief granted or other adjudication made.

(iii) The decree shall also state the amount of costs incurred in the appeal and by whom, or out of what property, and in what proportions such costs and the costs in the suit are to be paid.

(iv) The decree shall be signed and dated by the Registrar.

580. Certified copies of the decree in appeal shall be furnished to the parties on application to the appellate Court and at their expense. Copies of decree to be furnished to parties.

581. A copy of the decree, certified by the Registrar of the appellate Court, shall be sent to the Court which passed the decree appealed against and shall be filed with the original proceedings in the suit, and an entry of the judgment of the appellate Court shall be made in the register of civil suits. Certified copy of decree to be sent to Court whose decree appealed against.

582. (i) The appellate Court shall have, in appeals under this Chapter, the same powers, and shall perform as nearly as may be the same duties, as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted under Chapter VI; and, in Chapter XXIV, so far as may be, the word "plaintiff" shall be deemed to include a plaintiff-appellant or defendant-appellant, the word "defendant" a plaintiff-respondent or defendant-respondent, and the word "suit" an appeal, in proceedings arising out of the death, marriage, or insolvency of parties to an appeal. Appellate Court to have same powers as Courts of original jurisdiction.

(ii) The provisions hereinbefore contained shall apply to appeals under this Chapter so far as such provisions are applicable.

583. Where a party entitled to any benefit (by way of restitution or otherwise) under a decree passed in an appeal under this Chapter desires to obtain execution of the same, he shall apply to the Court which passed the decree against which the appeal was preferred; and such Court shall proceed to execute the decree passed in appeal according to the provisions hereinbefore contained for the execution of decrees in suits. Execution of decree of appellate Court.

Chapter XLVII.

PAUPER APPEALS.

584. Any person entitled under this Code or any other law to prefer an appeal, who is unable to pay the fee required for the memorandum of appeal, may present an application accompanied Who may appeal as pauper.

by a memorandum of appeal and may be allowed to appeal as a pauper, subject in all matters, including the presentation of such application, to the provisions of Chapters XXXVI and XLVI, in so far as those provisions are applicable.

Provided that the Court shall reject the application, unless, upon a perusal thereof and of the judgment and decree appealed against, it sees reason to think that the decree is contrary to law or to some usage having the force of law or is otherwise erroneous or unjust.

Inquiry into pauperism.

585. The inquiry into the pauperism of the applicant may be made either by the appellate Court or, under the orders of the appellate Court, by the Court against whose decision the appeal is preferred :

Provided that, if the applicant was allowed to sue or appeal as a pauper in the Court against whose decree the appeal is preferred, no further inquiry in respect of his pauperism shall be necessary, unless the appellate Court sees cause to direct such inquiry.

PART VIII.

REFERENCE, REVISION, AND REVIEW.

Chapter XLVIII.

REFERENCE AND REVISION.

Reference of question of law to Court of a Judicial Commissioner.

586. Where before or on the hearing of a suit or in the execution of a decree any question of law, or usage having the force of law, arises on which any Lower Civil Court trying the suit or executing the decree entertains reasonable doubt, such Court may, either of its own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained and refer such statement, with its own opinion on the point, for the decision of the Court of a Judicial Commissioner.

Court may pass decree contingent upon decision of Court of a Judicial Commissioner.

587. The Lower Civil Court may either stay the proceedings or proceed in the case, notwithstanding such reference, and may pass a decree or make an order contingent upon the decision of the Court of a Judicial Commissioner on the point referred ; but no decree or order shall be executed in any case in which such reference is made until the receipt of a copy of the judgment of the Court of a Judicial Commissioner upon the reference.

Judgment of Court of a Judicial Commissioner to be transmitted and case disposed of accordingly.

588. The Court of a Judicial Commissioner, after hearing the parties if they appear and desire to be heard, shall decide the point so referred and shall transmit a copy of its judgment, under the signature of the Registrar, to the Court by which the reference was made ; and such Court shall, on the receipt thereof, proceed to dispose of the case in conformity with the decision of the Court of a Judicial Commissioner.

Costs of reference.

589. The costs, if any, consequent on a reference for the decision of the Court of a Judicial Commissioner shall be costs in the case.

Power to alter, etc., decree of Court making reference.

590. Where a case is referred to the Court of a Judicial Commissioner under this Chapter, the said Court may return the case for amendment and may alter, cancel, or set aside any decree

or order which the Court making the reference has passed or made in the case out of which the reference arose and make such order as it thinks fit.

Reference of question of jurisdiction.

591. (i) Where at any time before judgment a Lower Civil Court in which a suit has been instituted doubts whether the suit is cognizable by itself or is not so cognizable, it may submit the record to the Court of a Judicial Commissioner with a statement of its reasons for the doubt as to the nature of the suit.

(ii) On receiving the record and statement the Court of a Judicial Commissioner may order the Court either to proceed with the suit or to return the plaint for presentation to such other Court as it may in its order declare to be competent to take cognizance of the suit.

Revision of cases in which no appeal lies.

592. The Court of a Judicial Commissioner may call for the record of any case which has been decided by a Lower Civil Court, and in which no appeal lies to the Court of a Judicial Commissioner, and, if the Court by which the case was decided appears

(*a*) to have exercised a jurisdiction not vested in it by law, or

(*b*) to have failed to exercise a jurisdiction so vested, or

(*c*) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the Court of a Judicial Commissioner may make such order in the case as it thinks fit.

Other powers not affected.

593. Nothing in this Chapter shall be deemed to derogate from, or in any way interfere with, the powers of supervision and revision given to the Court of a Judicial Commissioner by "The Courts Enactment, 1918."

Chapter XLIX.

REVIEW.

Application for review of judgment.

594. (i) Any person considering himself aggrieved

(*a*) by a decree or order from which an appeal is allowed but from which no appeal has been preferred, or

(*b*) by a decree or order from which no appeal is allowed,

who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him may apply for a review of judgment to the Court which passed the decree or made the order.

(ii) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party, except where the ground of such appeal is common to the applicant and the appellant or where, being a respondent, he can present to the appellate Court the case on which he applies for the review.

To whom applications for review may be made.

595. Except on the ground of the discovery of such new and important matter or evidence as aforesaid or of some clerical or arithmetical error apparent on the face of the decree, no application for review of a decree or order shall be made to any Judge other than the Judge who passed the decree or made the order sought to be reviewed ; but any such application may, if the Judge who passed the decree or made the order has ordered notice to issue under Section 597 (ii), be disposed of by his successor.

Form of application for review.

596. The provisions hereinbefore contained as to the form of preferring appeals shall apply, *mutatis mutandis*, to applications for review.

Application where rejected ; where granted.

597. (i) Where it appears to the Court that there is not sufficient ground for a review, it shall reject the application.

(ii) Where the Court is of opinion that the application for review should be granted, it shall grant the same, and the Judge shall record with his own hand his reasons for such opinion.

Provided that

(*a*) no such application shall be granted without previous notice to the opposite party, to enable him to appear and be heard in support of the decree or order, a review of which is applied for ; and

(*b*) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, without strict proof of such allegation.

Order of rejection not appealable. Objections to order granting application.

598. (i) An order of the Court rejecting the application shall not be appealable ; but an order granting an application may be objected to on the ground that the application was

(*a*) in contravention of the provisions of Section 595 ;

(*b*) in contravention of the provisions of Section 597 ; or

(*c*) after the expiration of thirty days from the date of the decree or order and without sufficient cause.

(ii) Such objection may be taken at once by an appeal against the order granting the application or may be taken in any appeal against the final decree or order passed or made in the suit.

(iii) Where the application has been rejected in consequence of the failure of the applicant to appear, he may apply for an order to have the rejected application restored to the file, and, where it is proved to the satisfaction of the Court that he was prevented by any sufficient cause from appearing when such application was called on for hearing, the Court shall order it to be restored to the file upon such terms as to costs or otherwise as it thinks fit and shall appoint a day for hearing the same.

(iv) No order shall be made under sub-section (iii) unless notice in writing of the application has been served on the opposite party.

Procedure on grant of application for review.

599. When an application for review is granted, a note thereof shall be made in the register and the Court may at once re-hear the case or make such order in regard to the re-hearing as it thinks fit.

600. No application to review an order made on an application for a review or a decree or order passed or made on a review shall be entertained. Bar of certain applications.

PART IX.

Chapter L.

MISCELLANEOUS.

601. (i) The Resident of a State may, by notification in the *Gazette*, exempt from personal appearance in Court in such State any person whose rank, in the opinion of such Resident, entitles him to the privilege of exemption, and may, by like notification, withdraw such privilege. Resident may exempt certain persons from personal appearance in Court.

(ii) The names and residences of the persons so exempted by the Resident of a State shall, from time to time, be forwarded by such Resident to the Supreme Court and a list of such persons shall be kept in such Court within the said State, and a list of such of the said persons as reside within the local limits of the jurisdiction of each Court in the said State which is subordinate to the Supreme Court shall be kept in such subordinate Court.

(iii) Where any person so exempted claims the privilege of such exemption and it is consequently necessary to examine him by commission, he shall pay the costs of the commission, unless the party requiring his evidence pays such costs.

602. (i) Where in a case pending before any Court there appears to such Court sufficient ground for sending for investigation to the Court of a Magistrate a charge of any such offence as is described in Section 193, Section 196, Section 199, Section 200, Section 205, Section 206, Section 207, Section 208, Section 209, Section 210, Section 463, Section 471, Section 474, Section 475, Section 476, or Section 477 of the Penal Code which may be made in the course of the case or in respect of any document offered in evidence in the case, the Court may cause the person charged to be detained till the rising of the Court and may then send him in custody to the Court of a Magistrate or take sufficient bail for his appearance before the Court of a Magistrate. Procedure where charge of certain offences requires investigation.

(ii) The Court shall send to the Public Prosecutor or a Deputy Public Prosecutor the evidence and documents relevant to the charge and may bind over any person to appear and give evidence before the Court of a Magistrate.

(iii) The Court of a Magistrate shall receive such charge and proceed with it according to law, and it shall be the duty of the Public Prosecutor or a Deputy Public Prosecutor to prosecute.

603. The forms contained in the third schedule, with such variations as circumstances require, may be used for the purpose of carrying out the provisions of this Code, and, if no such forms shall be found applicable, then such other similarly concise forms may be used as the Judicial Commissioners may from time to time prescribe. Forms.

Assessors in suits relating to salvage, etc.

604. (i) In any suit relating to salvage, towage, or collision the Court may, if it thinks fit, and upon request of either party to such suit shall, if possible, summon to its assistance, in such manner as the Judicial Commissioners, with the approval of the Chief Secretary, by rule prescribe, two competent assessors; and such assessors shall attend and assist accordingly.

(ii) Every such assessor shall receive such fees for his attendance as the Judicial Commissioners, with the approval of the Chief Secretary, by rule prescribe. Such fees shall be paid by such of the parties as the Court in each case directs.

Procedure where person to be arrested or property to be attached is within the Federated Malay States but outside jurisdiction of the Court applied to.

605. (i) Where an application is made that any person shall be arrested or that any property shall be attached under any provision of this Code not relating to the execution of decrees, and such person resides or such property is situate within the Federated Malay States but outside the local limits of the jurisdiction of the Court to which the application is made, the Court may, in its discretion, issue a warrant of arrest or make an order of attachment and send to the Court within the local limits of whose jurisdiction such person or property resides or is situate a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

(ii) Such Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers and shall inform the Court which issued or made such warrant or order of the arrest or attachment.

(iii) The Court making an arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he shews cause to the satisfaction of the former Court why he should not be sent to the latter Court, or unless he furnishes sufficient security for his appearance before the latter Court or (where the case is one under Chapter XLII) for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him.

Application of Chapter XXII.

606. (i) The provisions of Chapter XXII shall apply to the execution of any judicial process for the arrest of a person or the sale of property or payment of money, which may be ordered by a Civil Court in any civil proceeding.

(ii) In the same Chapter the expression "Court which passed a decree," or words to that effect, shall, in relation to the execution of decrees unless there is anything repugnant in the subject or context, be deemed to include,

(*a*) where the decree to be executed has been passed in the exercise of appellate jurisdiction, the Court of first instance, and

(*b*) where the Court of first instance has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed were instituted at the time of making the application for the execution of the decree, would have jurisdiction to try such suit.

Application of provisions relating to witnesses.

607. The provisions of Chapters XVI and XVIII relating to witnesses shall apply to all persons required to give evidence or to produce documents in any proceeding under this Code.

608. Summonses issued by any Civil Court

(*a*) in the Colony, or

(*b*) in any State in the Malay Peninsula under the Protection of His Britannic Majesty to which the Chief Secretary, by notification in the *Gazette*, extends the operation of this section,

if sent to the Courts in the Federated Malay States may be served as if they had been issued by such Courts. Service of summonses issued in the Colony or Malay States.

609. (i) At any time after a warrant of arrest has been issued under this Code, the Court may cancel it on the ground of the serious illness of the person for whose arrest the warrant was issued. Release on ground of illness.

(ii) Where a judgment-debtor has been arrested under this Code, the Court may release him if in its opinion he is not in a fit state of health to be detained in the civil prison.

(iii) Where a judgment-debtor has been committed to the civil prison, he may be released therefrom

(*a*) by the Resident of the State in which such prison is situate, on the ground of the existence of any infectious or contagious disease, or

(*b*) by the committing Court, or any Court to which that Court is subordinate, on the ground of his suffering from any serious illness.

(iv) A judgment-debtor released under this section may be re-arrested, but the period of his detention in the civil prison shall not in the aggregate exceed that prescribed by Section 328.

610. (i) Money lodged in the Supreme Court to the credit of any account shall be deemed to be placed on deposit and shall be credited with interest at such rate as shall from time to time be fixed by the Chief Secretary, not being greater than the highest rate of interest which for the time being can be obtained by the Government on a current account from any bank in the Federated Malay States, except in the following cases : Interest on money lodged in Supreme Court.

(*a*) when the money is paid into Court under Chapter XXVI or Chapter XXXIX or as security for costs, or in satisfaction or part satisfaction of a decree or order ; or

(*b*) when the amount is less than one hundred dollars.

(ii) Money on deposit shall be deemed to be withdrawn from deposit when the amount is reduced below one hundred dollars.

(iii) Interest upon money on deposit shall not be computed on a fraction of one dollar.

(iv) Interest upon money on deposit shall accrue by calendar months and shall not be computed by any less period. Such interest shall begin on the first day of the calendar month next succeeding that in which the money is placed on deposit, and shall cease from the last day of the calendar month next preceding the day of the withdrawal of the money from deposit.

(v) Interest which has accrued for or during the half-year, ending on the 30th of June and 31st of December in every year, on money then on deposit shall, on or before the 15th days of the months

respectively following, be placed to the credit to which such money shall be standing on every such half-yearly day. And, when money on deposit is withdrawn from deposit, the interest thereon which has accrued and has not been credited shall be placed to the credit to which the money is then standing.

(vi) When money on deposit consists of sums which have been placed on deposit at different times, and an order is made dealing with the money, and part of such money has to be withdrawn from deposit for the purpose of executing such order, the part or parts of the money dealt with by such order last placed and remaining on deposit at the time of such withdrawal shall, for the purpose of computing interest, be treated as so withdrawn, unless the order otherwise directs.

(vii) Unless otherwise directed by an order, interest credited on money on deposit shall, when or so soon as it amounts to or exceeds one hundred dollars, be placed on deposit and, for the purpose of computing interest upon it, shall be treated as having been placed on deposit on the last half-yearly day on which any such interest became due.

Enlargement of time.

611. Where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Code, the Court may in its discretion from time to time enlarge such period, even though the period originally fixed or granted may have expired.

Saving of inherent powers of Court.

612. Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

General power to amend.

613. The Court may at any time, and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any proceeding in a suit, and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on such proceeding.

Powers of Registrar

614. (i) Any non-judicial or quasi-judicial act which this Code requires to be done by a judge, and any act which may be done by a Commissioner appointed under Section 383, may be done by the Registrar of the Court.

(ii) The Judicial Commissioners may from time to time, by rule published in the *Gazette*, declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of this section.

(iii) A Judicial Commissioner may, in any suit in which it shall appear necessary for the purposes of justice, make an order for the examination on affirmation before the Registrar of any witness, and may empower any party to such suit to give such deposition in evidence ; provided that no such deposition shall be used against any party unless reasonable facilities were afforded to such party to attend at the examination and to cross-examine the witness.

Exercise of certain powers of Judicial Commissioners.

615. Any power vested by this Code in the Judicial Commissioners to prescribe fees or allowances or forms or to direct procedure or to make rules may be exercised by any two Judicial Commissioners, of whom the Chief Judicial Commissioner shall be one.

First Schedule.

ENACTMENTS REPEALED.

I.—STATE ENACTMENTS.

State.	No. and year.	Short title.	Extent of repeal.
Perak ..	11 of 1902	The Civil Procedure Code, 1902	The whole, in so far as not already repealed
Selangor ..	13 of 1902	Do.	Do.
N. Sembilan	7 of 1902	Do.	Do.
Pahang ..	11 of 1902	Do.	Do.
Perak ..	15 of 1905	The Civil Procedure Code Amendment Enactment, 1905	The whole
Selangor ..	17 of 1905	Do.	Do.
N. Sembilan	16 of 1905	Do.	Do.
Pahang ..	16 of 1905	Do.	Do.
Perak ..	8 of 1906	The Civil Procedure Code Amendment Enactment, 1906	Do.

II.—FEDERAL ENACTMENTS.

No. and year.	Short title.	Extent of repeal.
17 of 1913	The Civil Procedure Codes, 1902, Amendment Enactment, 1913	The whole
21 of 1917	The Civil Procedure Codes, 1902, Amendment Enactment, 1917	Do.

Second Schedule.

CHAPTERS AND SECTIONS OF THIS CODE WHICH APPLY (SO FAR AS THEY ARE APPLICABLE) TO THE CIVIL COURTS BELOW THE COURT OF A JUDICIAL COMMISSIONER.

Preliminary : Sections 1, 2, 3, and 4.

Chapter.

I.—Res judicata.

II.—The Place of Suing.

III.—Parties to Suits.

IV.—Frame of Suit, except Section 28 and Section 30.

V.—Recognized Agents and Solicitors.

VI.—Institution of Suits.

VII.—Issue and Service of Summons, except Section 72.

VIII.—Written Statement and Set-off.

IX.—Appearance of Parties and Consequence of Non-appearance.

X.—Examination of Parties by the Court.

XI.—Discovery and Inspection.

XII.—Admissions.

XIII.—Production, Impounding, and Return of Documents.

XV.—Section 154, Failure to produce Evidence.

XVI.—Summoning and Attendance of Witnesses.

XVII.—Adjournments.

XVIII.—Hearing of the Suit and Examination of Witnesses.

XIX.—Affidavits.

XX.—Judgment and Decree.

XXI.—Sections 218, 219, and 220, Costs.

XXII.—Execution of Decrees, except so far as relates to Execution against Immovable Property otherwise than by order of the Supreme Court.

XXIV.—Death, Marriage, and Insolvency of Parties.

XXV.—Withdrawal and Adjustment of Suits.

XXVI.—Payment into Court.

XXVII.—Security for Costs.

XXVIII.—Commissions and Letters of Request, except Section 380.

XXX.—Suits by or against the Government.

XXXI.—Suits by or against Military Men.

XXXII.—Suits by or against Corporations.

XXXIII.—Suits by or against Firms and Persons carrying on business in names other than their own.

XXXIV.—Suits by or against Trustees, Executors, and Administrators.

XXXV.—Suits by or against Minors and Persons of Unsound Mind.

XXXVI.—Suits by Paupers.

XXXVII.—Interpleader.

XXXVIII.—Special Case.

XLII.—Arrest and Attachment before Judgment, except as regards Immovable Property.

XLIV.—Appointment of Receivers.

XLV.—Termination of Tenancies and Distress for Rent.

XLVIII.—Reference and Revision.

XLIX.—Review.

L.—Miscellaneous.

Third Schedule.

FORMS.

A.—PLAINTS; GENERAL.

No. 1.

MONEY LENT.

In the Court of....., at.....

Civil Suit No.....

A. B. of.....Plaintiff,

against

C. D. of.....Defendant.

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., he lent the defendant. ..dollars repayable on demand [or on the..... day of.....].

2. The defendant has not paid the same, except.....dollars paid on the.....day of....., 19..

[If the plaintiff claims exemption from any law of limitation, say:]

3. The plaintiff was a minor [or insane] from the.....day of .....till the.....day of.....

4. The plaintiff prays judgment for.....dollars, with interest at .....per cent. from the.....day....., 19..

No. 2.

MONEY RECEIVED TO PLAINTIFF'S USE.

(Title.)

A. B. and G. H., the above-named plaintiffs, state as follows:

1. On the.....day of..... 19.., at....., the defendant received.....dollars [or a cheque on the.....Bank for..... dollars] from one E. F. for the use of the plaintiffs.

2. The defendant has not paid [or delivered] the same accordingly.

3. The plaintiffs pray judgment for.....dollars, with interest at .....per cent. from the.....day of....., 19..

No. 3.

PRICE OF GOODS SOLD BY A FACTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., he and E. F., since deceased, delivered to the defendant [one thousand barrels of flour, five hundred gantangs of rice, or as the case may be] for sale upon commission.

2. On the.....day of....., 19.., [or, on some day unknown to the plaintiff, before the.....day of....., 19..], the defendant sold the said merchandise for.....dollars.

3. The commission and expenses of the defendant thereon amount to.....dollars.

4. On the.....day of....., 19.., the plaintiff demanded from the defendant the proceeds of the said merchandise.

5. He has not paid the same.

[Demand of judgment.]

No. 4.

MONEY OVERPAID.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the plaintiff agreed to buy and the defendant agreed to sell.....bars of silver at .....dollars per kati of fine silver.

2. The plaintiff procured the said bars to be assayed by E. F., who was paid by the defendant for such assay, and the said E. F. declared each of the said bars to contain 1,500 katis of fine silver, and the plaintiff accordingly paid the defendant.....dollars therefor.

3. Each of the said bars contained only 1,200 katis of fine silver, of which fact the plaintiff was ignorant when he made the payment.

4. The defendant has not repaid the sum so overpaid.

[Demand of judgment.]

[NOTE.—A demand of repayment is not necessary, but it may affect the question of interest or the costs.]

No. 5.

MONEY PAID TO A THIRD PARTY AT THE DEFENDANT'S REQUEST.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., at the request [or by the authority] of the defendant, the plaintiff paid to E. F. .....dollars.

2. In consideration thereof, the defendant promised [or became bound] to pay the same to the plaintiff on demand [or as the case may be].

3. [On the.....day of....., 19.., the plaintiff demanded payment of the same from the defendant, but] he has not paid the same.

[Demand of judgment.]

[NOTE.—If the request or authority is implied, the plaint should state facts raising the implication.]

No. 6.

GOODS SOLD AT A FIXED PRICE AND DELIVERED.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at.....E. F., of..... deceased, sold and delivered to the defendant [one hundred barrels of flour, or the goods mentioned in the schedule hereto annexed, or sundry goods.]

2. The defendant promised to pay.....dollars for the said goods on delivery [or, on the.....day of.....(some day before the plaint was filed)].

3. He has not paid the same.

4. The said E. F. in his lifetime made his will, whereby he appointed the plaintiff executor thereof.

5. On the.....day of....., 19.., the said E. F. died.

6. On the.....day of....., 19.., probate of the said will was granted to the plaintiff by the Court of.....

7. The plaintiff as executor as aforesaid [demand of judgment].

No. 7.

GOODS SOLD AT A REASONABLE PRICE AND DELIVERED.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., plaintiff sold and delivered to the defendant [sundry articles of house furniture] but no express agreement was made as to the price.

2. The same were reasonably worth.....dollars.

3. The defendant has not paid the same.

[Demand of judgment.]

No. 8.

GOODS DELIVERED TO A THIRD PARTY AT DEFENDANT'S REQUEST AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., plaintiff sold to the defendant [one hundred barrels of flour] and, at the request of the defendant, delivered the same to E. F.

2. The defendant promised to pay to the plaintiff.....dollars therefor.

3. He has not paid the same.

[Demand of judgment.]

No. 9.

NECESSARIES FURNISHED TO THE FAMILY OF DEFENDANT'S TESTATOR WITHOUT HIS EXPRESS REQUEST, AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., plaintiff furnished to [*Mary Jones*] the wife of [*James Jones*], deceased, at her request, sundry articles of [food and clothing], but no express agreement was made as to the price.

2. The same were necessary for her.

3. The same were reasonably worth.....dollars.

4. The said *James Jones* refused to pay the same.

5. The defendant is the executor of the last will of the said *James Jones*.

[Demand of judgment.]

No. 10.

GOODS SOLD AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the plaintiff sold to E. F., of....., deceased [all the crops then growing on his farm in.....].

2. The said E. F. promised to pay the plaintiff.....dollars for the same.

3. He did not pay the same.

4. The defendant is administrator of the estate of the said E. F.

[Demand of judgment.]

No. 11.

GOODS SOLD AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., E. F., of....., sold to the defendant [all the fruit growing in his orchard in.....], but no express agreement was made as to the price.

2. The same was reasonably worth.....dollars.

3. The defendant has not paid the same.

4. On the.....day of.....the Court of.....duly adjudged the said E. F. to be a lunatic and appointed the plaintiff committee of his estate, with the usual powers for the management thereof.

5. The plaintiff as committee as aforesaid [demand of judgment].

No. 12.

GOODS MADE AT DEFENDANT'S REQUEST, AND NOT ACCEPTED.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., E. F., of....., agreed with the plaintiff that the plaintiff should make for him [six tables and fifty chairs], and that the said E. F. should pay for the same upon the delivery thereof.....dollars.

2. The plaintiff made the said goods, and on the.....day of ....., 19.., offered to deliver the same to the said E. F., and has ever since been ready and willing so to do.

3. The said E. F. has not accepted the said goods or paid for the same.

4. On the.....day of....., 19.., the Court of.....duly adjudged the said E. F. to be a lunatic, and appointed the defendant committee of his estate.

5. The plaintiff prays judgment for.....dollars with interest from the.....day of....., at the rate of.....per cent. per annum, to be paid out of the estate of the said E. F. in the hands of the defendant.

No. 13.

DEFICIENCY UPON A RE-SALE [GOODS SOLD AT AUCTION].

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., plaintiff put up at auction sundry [articles of merchandise], subject to the condition that all goods not paid for and removed by the purchaser thereof within [ten days] after the sale should be re-sold by auction on his account, of which condition the defendant had notice.

2. The defendant purchased [one crate of crockery] at the said auction at the price of.....dollars.

3. The plaintiff was ready and willing to deliver the same to the defendant on the said day and for [ten days] thereafter, of which the defendant had notice.

4. The defendant did not take away the said goods purchased by him, nor pay therefor, within [ten days] after the sale, nor afterwards.

5. On the.....day of....., 19.., at....., the plaintiff re-sold the said [crate of crockery], on account of the defendant, by public auction, for.....dollars.

6. The expenses attendant upon such re-sale amounted to..... dollars.

7. The defendant has not paid the deficiency thus arising, amounting to.....dollars.

[Demand of judgment.]

No. 14.

PURCHASE-MONEY OF LANDS CONVEYED.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the plaintiff sold [and conveyed] to the defendant [the house and compound No. ....., in the city of..... ; or, a farm known as....., in..... ; or, a piece of land lying, etc.]

2. The defendant promised to pay the plaintiff.....dollars for the said [house and compound, or farm, or land].

3. He has not paid the same.

[Demand of judgment.]

[Note.—Where there has been no actual conveyance, say, in paragraph 1, "sold to the defendant the house, etc., and placed him in possession of the same."]

No. 15.

PURCHASE-MONEY OF IMMOVABLE PROPERTY CONTRACTED TO BE SOLD, BUT NOT CONVEYED.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff [the house No....., in the town of..... ; or, one hundred acres of land in....., bounded by the Ampang Road, and by other lands of the plaintiff] for.....dollars.

2. On the.....day of....., 19.., at....., the plaintiff tendered [or, was ready and willing, and offered to execute] a sufficient instrument of conveyance of the said property to the defendant, on payment of the said sum, and still is ready and willing to execute the same.

3. The defendant has not paid the said sum.

[Demand of judgment.]

No. 16.

SERVICES AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant [hired plaintiff as a clerk, at the salary of.....dollars per year].

2. From the [said day] until the.....day of....., 19.., the plaintiff served the defendant as his [clerk].

3. The defendant has not paid the said salary.

[Demand of judgment.]

No. 17.

SERVICES AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. Between the.....day of....., 19.., and the.....day of ....., 19.., at....., plaintiff [executed sundry drawings, designs, and diagrams] for the defendant, at his request; but no express agreement was made as to the sum to be paid for such services.

2. The said services were reasonably worth.....dollars.

3. The defendant has not paid the same.

[Demand of judgment.]

No. 18.

SERVICES AND MATERIALS AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., plaintiff [furnished the paper for and printed one thousand copies of a book called .....] for the defendant, at his request [and delivered the same to him].

2. The defendant promised to pay.....dollars therefor.

3. He has not paid the same.

[Demand of judgment.]

No. 19.

SERVICES AND MATERIALS AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., plaintiff built a house [known as No....., in.....], and furnished the materials therefor, for the defendant, at his request, but no express agreement was made as to the price to be paid for such work and materials.

2. The said work and materials were reasonably worth..... dollars.

3. The defendant has not paid the same.

[Demand of judgment.]

No. 20.

RENT RESERVED IN A LEASE.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant entered into a contract with the plaintiff, under their hands, a copy of which is hereto annexed.

[Or state the substance of the contract.]

2. The defendant has not paid the rent of the [month] ending on the.....day of....., 19.., amounting to.....dollars.

[Demand of judgment.]

Another form.

1. The plaintiff let to the defendant a house [No. 27, Batu Road], for [seven years] to hold from the.....day of....., 19.., at .....dollars a year, payable quarterly.

2. Of such rent.....quarters are due and unpaid.

[Demand of judgment.]

No. 21.

USE AND OCCUPATION AT A FIXED RENT.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant hired from the plaintiff the [house No....., ...street], at the rent of.....dollars, payable..... on the first day of.....

2. The defendant occupied the said premises from the.....day of....., 19.., to the.....day of....., 19...

3. The defendant has not paid.....dollars being the part of said rent due on the first day of....., 19...

[Demand of judgment.]

No. 22.

USE AND OCCUPATION AT A REASONABLE RENT.

(Title.)

A. B., the above-named plaintiff, executor of the will of X. Y., deceased, states as follows:

1. The defendant occupied the [house No....., ...street], by permission of the said X. Y., from the.....day of....., 19.., until the.....day of....., 19.., and no agreement was made as to payment for the use of the said premises.

2. The use of the said premises for the said period was reasonably worth.....dollars.

3. The defendant has not paid the same.

4. The plaintiff as such executor as aforesaid prays judgment for .....dollars.

No. 23.

BOARD AND LODGING.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. From the.....day of....., 19.., until the.....day of ....., 19.., the defendant occupied certain rooms in the house

[No....., ...street], by permission of the plaintiff, and was furnished by the plaintiff, at his request, with meat, drink, attendance, and other necessaries.

2. In consideration thereof, the defendant promised to pay [or, no agreement was made as to payment for such meat, drink, attendance, or necessaries, but the same were reasonably worth] the sum of.....dollars.

3. The defendant has not paid the same.

[Demand of judgment.]

No. 24.

FREIGHT OF GOODS.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., plaintiff transported in [his barge, or otherwise] [one thousand barrels of flour, or sundry goods], from.....to....., at the request of the defendant.

2. The defendant promised to pay the plaintiff the sum of [one dollar per barrel] as freight thereon [or, no agreement was made as to payment, for such transportation, but such transportation was reasonably worth.....dollars].

3. The defendant has not paid the same.

[Demand of judgment.]

No. 25.

PASSAGE-MONEY.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., plaintiff conveyed the defendant [in his ship, called the.....], from.....to.....at his request.

2. The defendant promised to pay the plaintiff.....dollars therefor [or, no agreement was made as to price of the said passage, but the said passage was reasonably worth.....dollars].

3. The defendant has not paid the same.

[Demand of judgment.]

No. 26.

ON AN AWARD.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the plaintiff and defendant, having a controversy between them concerning [a

demand of the plaintiff for the price of ten barrels of oil which the defendant refused to pay], agreed to submit the same to the award of E. F. and G. H. as arbitrators [or, entered into an agreement, a copy of which is hereto annexed].

2. On the.....day of....., 19.., at....., the said arbitrators awarded that the defendant should [pay the plaintiff.....dollars].

3. The defendant has not paid the same.

[Demand of judgment.]

No. 27.

ON A FOREIGN JUDGMENT.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., in the State [or Kingdom] of....., the.....Court of that State [or Kingdom], in a suit therein pending between the plaintiff and the defendant, duly adjudged that the defendant should pay to the plaintiff.....dollars, with interest from the said date.

2. The defendant has not paid the same.

[Demand of judgment.]

B.—PLAINTS UPON INSTRUMENTS FOR THE PAYMENT OF MONEY ONLY.

No. 28.

ON AN ANNUITY BOND.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant by his bond became bound to the plaintiff in the sum of.....dollars, to be paid by the defendant to the plaintiff, subject to a condition that if the defendant should pay to the plaintiff.....dollars, half-yearly on the.....day of.....and the.....day of.....in every year during the life of the plaintiff, the said bond should be void.

2. Afterwards, on the.....day of....., 19.., the sum of..... dollars, for.....of the said half-yearly payments of the said annuity, became due to the plaintiff and is still unpaid.

[Demand of judgment.]

No. 29.

PAYEE AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant, by his promissory note, now overdue, promised to pay to the plaintiff.....dollars.....[days] after date.

2. He has not paid the same [except.....dollars, paid on the .....day of....., 19..].

[Demand of judgment.]

[NOTE.—Where the note is payable after notice, for paragraphs 1 and 2 substitute—]

1. On the.....day of....., 19.., at....., the defendant by his promissory note promised to pay to the plaintiff.....dollars, ...months after notice.

2. Notice was afterwards given by the plaintiff to the defendant to pay the same.....months after the said notice.

3. The said time for payment has elapsed, but the defendant has not paid the same.

[Where the note is payable at a particular place, say—]

1. On the.....day of....., 19.., at....., the defendant, by his promissory note, now overdue, promised to pay to the plaintiff [at Messrs. A. & Co.'s, Ipoh],.....dollars, ... month after date.

2. The said note was duly presented for payment [at Messrs. A. & Co.'s] aforesaid, but has not been paid.

WRITTEN STATEMENT OF THE DEFENDANT.

In the Court, etc.

C. D., the above-named defendant, states as follows :

1. The defendant made the note sued upon under the following circumstances :—The plaintiff and defendant had for some years been in partnership as indigo manufacturers, and it had been agreed between them that they should dissolve partnership, that the plaintiff should retire from the business, and that the defendant should take over the whole of the partnership assets and liabilities and should pay the plaintiff the value of his share in the assets after deducting the liabilities.

2. The plaintiff thereupon undertook to examine the partnership books and enquire into the state of the partnership assets and liabilities ; and he did accordingly examine the said books and make the said enquiries, and he thereupon represented to the defendant that the assets of the firm exceeded $100,000 and that the liabilities of the firm were less than $30,000, whereas the fact was that the assets of the firm were less than $50,000, and the liabilities of the firm largely exceeded the assets.

3. The misrepresentations mentioned in the second paragraph of this statement induced the defendant to make the note now sued on, and there never was any other consideration for the making of such note.

No. 30.

FIRST INDORSEE AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., at....., the defendant by his promissory note, now overdue, promised to pay to the order of E. F. [or to E. F. or order].....dollars [.....days after date].

2. The said E. F. indorsed the same to the plaintiff.

3. The defendant has not paid the same.

[Demand of judgment.]

No. 31.

SUBSEQUENT INDORSEE AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. [As in the last preceding form.]

2. The same was, by the indorsement of the said E. F. and of G. H. and I. J. [or, and others] transferred to the plaintiff.

3. The defendant has not paid the same.

[Demand of judgment.]

No. 32.

FIRST INDORSEE AGAINST FIRST INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. E. F., on the.....day of....., 19.., at....., by his promissory note, now overdue, promised to pay to the defendant or order.....dollars.....months after date.

2. The defendant indorsed the same to the plaintiff.

3. On the.....day of....., 19.., the same was duly presented for payment, but was not paid.

[Or state facts excusing want of presentment.]

4. The defendant had notice thereof.

5. He has not paid the same.

[Demand of Judgment.]

No. 33.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSER ; THE INDORSEMENT BEING SPECIAL.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. The defendant indorsed to one E. F. a promissory note, now overdue, made [or purporting to have been made] by one G. H., on the.....day of....., 19.., at....., to the order of the defendant for the sum of.....dollars [payable.....days after date].

2. The same was, by the indorsement of the said E. F. [and others], transferred to the plaintiff [or, the said E. F. [indorsed the same to the plaintiff].

3, 4, and 5. [Same as 3, 4, and 5 of the last preceding form.]

[Demand of Judgment.]

No. 34.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. The defendant indorsed to him a promissory note, now overdue, made [or purporting to have been made] by one E. F., on the..... day of....., 19.., at....., to the order of one G. H., for the sum of.....dollars [payable.....days after date], and indorsed by the said G. H. to the defendant.

2, 3, and 4. [Same as in 3, 4, and 5 in Form No. 33.]

[Demand of Judgment.]

No. 35.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. A promissory note, now overdue, made [or purporting to have been made] by one E. F., on the.....day of....., 19.., at..... to the order of one G. H., for the sum of.....dollars [payable..... days after date], and indorsed by the said G.H. to the defendant, was by the indorsement of the defendant [and others] transferred to the plaintiff.

2, 3, and 4. [As in No. 33.]

[Demand of judgment.]

No. 36.

SUBSEQUENT INDORSEE AGAINST MAKER, AND FIRST AND SECOND INDORSER.

In the Court of.....at.....

Civil Suit No.....

A. B. of.....

against

C. D. of.....

E. F. of.....

and G. H. of.....

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., at....., the defendant, C. D., by his promissory note, now overdue, promised to pay to the order of the defendant, E. F.,.....dollars [.....months after date].

2. The said E. F. indorsed the same to the defendant, G. H., who indorsed it to the plaintiff.

3. On the.....day of....., 19.., the same was presented [or state facts excusing want of presentment] to the said C. D. for payment, but was not paid.

4. The said E. F. and G. H. had notice thereof.

5. They have not paid the same.

[Demand of judgment.]

No. 37.

DRAWER AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., at....., by his bill of exchange, now overdue, the plaintiff required the defendant to pay to him.....dollars [.....days after date, or sight, thereof].

2. The defendant accepted the said bill. [If the bill is payable at a certain time after sight, the date of acceptance should be stated ; otherwise it is not necessary.]

3. He has not paid the same.

4. By reason thereof the plaintiff incurred expenses in and about the presenting and noting of the bill, and incidental to the dishonour thereof.

[Demand of judgment.]

[NOTE.—Where the bill is payable to a third party, for paragraphs 1, 2, 3, say—]

1. On, etc., at, etc., by his bill of exchange, now overdue, directed to the defendant, the plaintiff required the defendant to pay to E. F. or order.....dollars.....months after date.

2. The plaintiff delivered the said bill to the said E. F. on.....

3. The defendant accepted the said bill, but did not pay the same, whereupon the same was returned to the plaintiff.

No. 38.

PAYEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., the defendant accepted a bill of exchange, now overdue, made [or purporting to have been made] by one E. F., on the.....day of....., 19.., at....., requiring the defendant to pay to the plaintiff.....dollars..... after sight thereof.

2. He has not paid the same.

[Demand of judgment.]

No. 39.

FIRST INDORSEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., the defendant accepted a bill of exchange, now overdue, made [or purporting to have been made] by one E. F., on the.....day of....., 19.., at....., requiring the defendant to pay to the order of one G. H..... dollars.....after sight thereof.

2. The said G. H. indorsed the same to plaintiff.

3. The defendant has not paid the same.

[Demand of judgment.]

No. 40.

SUBSEQUENT INDORSEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. [As in the last preceding form to the end of paragraph 1.]

2. By the indorsement of the said G. H. [and others], the same was transferred to the plaintiff.

3. The defendant has not paid the same.

[Demand of judgment.]

No. 41.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., at....., the defendant, by his bill of exchange, directed to E. F., required the said E. F. to pay to the plaintiff.....dollars [.....days after sight].

2. On the....day of....., 19.., the same was duly presented to the said E. F. for acceptance, and was dishonoured.

3. The defendant had due notice thereof.

4. He has not paid the same.

[Demand of judgment.]

No. 42.

FIRST INDORSEE AGAINST FIRST INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. The defendant indorsed to the plaintiff a bill of exchange, now overdue, made [or purporting to have been made] by one E. F., on

the.....day of....., 19.., at....., requiring one G. H. to pay to the order of the defendant.....dollars [.....days] after sight [or after date, or at sight] thereof [and accepted by the said G. H. on the.....day of ....., 19..].

2. On the.....day of....., 19.., the same was presented to the said G. H. for payment, and was dishonoured.

3. The defendant had due notice thereof.

4. He has not paid the same.

[Demand of judgment].

No. 43.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSER; THE INDORSEMENT BEING SPECIAL.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. The defendant indorsed to one E. F. a bill of exchange, now overdue, made [or purporting to have been made] by one G. H., on the.....day of....., 19.., at....., requiring one I. J. to pay to the order of the defendant.....dollars.....days after sight thereof [or otherwise], and accepted by the said I. J. on the..... day of....., 19.. [This clause may be omitted if not according to the fact.]

2. The same was, by the indorsement of the said E. F. [and others], transferred to the plaintiff.

3. On the.....day of....., 19.., the same was presented to the said I. J. for payment, and was dishonoured.

4. The defendant had due notice thereof.

5. He has not paid the same.

[Demand of judgment.]

No. 44.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. The defendant indorsed to plaintiff a bill of exchange, now overdue, made [or purporting to have been made] by one E. F., on the.....day of....., 19.., at....., requiring one G. H. to pay to the order of I. J.....dollars.....days after sight thereof [or otherwise], [accepted by the said G. H.] and indorsed by the said I.J. to the defendant.

2. On the.....day of....., 19.., the same was presented to the said G. H. for payment, and was dishonoured.

3. The defendant had due notice thereof.

4. He has not paid the same.

[Demand of judgment.]

No. 45.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. A bill of exchange, now overdue, made [or purporting to have been made] by one E. F., on the.....day of....., 19.., at....., requiring one G. H. to pay to the order of one I. J.....dollars .....days after sight thereof [or otherwise], [accepted by the said G. H.] and indorsed by the said I. J. to the defendant, was, by the indorsement of the defendant [and others], transferred to the plaintiff.

2. On the.....day of....., 19.., the same was presented to the said G. H. for payment, and was dishonoured.

3. The defendant has due notice thereof.

4. He has not paid the same.

[Demand of judgment.]

No. 46.

INDORSEE AGAINST DRAWER, ACCEPTOR, AND INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., at....., the defendant, C. D., by his bill of exchange, now overdue, directed to the defendant E. F., required the said E. F. to pay to the order of the defendant G. H.....dollars [.....days after sight thereof].

2. On the.....day of....., 19.., the said E. F. accepted the same.

3. The said G. H. indorsed the same to the plaintiff.

4. On the.....day of....., 19.., the same was presented to the said E. F. for payment, and was dishonoured.

5. The other defendants had due notice thereof.

6. They have not paid the same.

[Demand of judgment.]

No. 47.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE OF A FOREIGN BILL.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., at....., the defendant by his bill of exchange, drawn in Taiping, required one E. F. to pay to the plaintiff in [London].....pounds sterling [sixty days] after sight thereof.

2. On the.....day of....., 19.., the same was presented to the said E. F. for acceptance, and was dishonoured, and was thereupon duly protested.

3. The defendant had due notice thereof.

4. He has not paid the same.

[5. The value of.....pounds sterling, at the time of the service of notice of protest on the defendant, was.....dollars.]

Wherefore the plaintiff demands judgment against the defendant for.....dollars, with [ten per centum] compensation and interest from the.....day of....., 19...

No. 48.

PAYEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., one E. F., by his bill of exchange, now overdue, directed to the defendant, required the defendant to pay to the plaintiff.....dollars after date [or .....days after sight] thereof.

2. On the.....day of.. . .19. , the defendant accepted the said bill.

3. He has not paid the same.

[Demand of judgment.]

No. 49.

ON A MARINE [OPEN] POLICY, ON VESSEL LOST BY PERILS OF THE SEA, ETC.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. The plaintiff was the owner of [or had an interest in] the ship .....at the time of her loss, as hereinafter mentioned.

2. On the.....day of....., 19.., at....., the defendants, in consideration of.....dollars to them paid [or which the plaintiff then promised to pay], executed to him a policy of insurance upon the said ship, a copy of which is hereto annexed [or, whereby they promised to pay to the plaintiff, within.....days after proof of loss and interest, all loss and damage accruing to him by reason of the destruction or injury of the said ship, during her next voyage from.....to....., whether by perils of the sea or by fire, or by other causes therein mentioned, not exceeding.....dollars].

3. The said ship, while proceeding on the voyage mentioned in the said policy, was on the.....day of....., 19.., totally lost by the perils of the sea [or otherwise].

4. The plaintiff's loss thereby was.....dollars.

5. On the.....day of....., 19.., he furnished the defendants with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. The defendants have not paid the said loss.

[Demand of judgment.]

No. 50.

ON CARGO, LOST BY FIRE :—VALUED POLICY.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. The plaintiff was the owner of [or had an interest in] [one hundred bales of cotton] on board the ship.....at the time of her loss as hereinafter mentioned.

2. On the.....day of....., 19.., at....., the defendants, in consideration of.....dollars, which the plaintiff then paid [or promised to pay], executed to him a policy of insurance upon the said goods, a copy of which is hereto annexed [or, whereby they promised to pay to the plaintiff.....dollars in case of the total loss, by fire or other causes mentioned, of the said goods before their landing at..... ; or, in case of partial loss, such damage as the plaintiff might sustain thereby, provided the same should not exceed.....per centum of the whole value of the goods].

3. On the.....day of....., 19.., at....., while proceeding on the voyage mentioned in the said policy, the said goods were totally destroyed by fire (or, as the case may be).

4, 5, and 6. [As in paragraphs 4, 5, and 6 of the last preceding form.]

[Demand of judgment.]

No. 51.

ON FREIGHT :—VALUED POLICY.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. The plaintiff had an interest in the freight to be earned by the ship.....on her voyage from.....to.....at the time of her loss as hereinafter mentioned and a large quantity of goods was shipped upon freight in her at that time.

2. On the.....day of....., 19.., at....., the defendant, in consideration of.....dollars to him paid, executed to the plaintiff a policy of insurance upon the said freight, a copy of which is hereto annexed [or state its tenor, as before].

3. The said ship, while proceeding upon the voyage mentioned in the said policy, was, on the.....day of....., 19.., totally lost by [the perils of the sea].

4. The plaintiff has not received any freight from the said ship, nor did she earn any on the said voyage, by reason of her loss as aforesaid.

5 and 6. [As in Form No. 49.]

[Demand of judgment.]

No. 52.

LOSS BY GENERAL AVERAGE.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. The plaintiff was the owner of [or had an interest in] [one hundred bales of cotton] shipped on board a vessel called the Y. Z., from.....to....., at the time of the loss hereinafter mentioned.

2. On the.....day of....., 19.., at....., in consideration of.....dollars [which the plaintiff then promised to pay], the defendant executed to the plaintiff a policy of insurance upon his said goods, a copy of which is hereto annexed [or state its tenor, as before].

3. On the.....day of....., 19.., while proceeding on the voyage mentioned in the said policy, the said vessel was so endangered by perils of the sea that the master and crew thereof were compelled to, and did, cast into the sea a large part of her rigging and furniture.

4. The plaintiff was, by reason thereof, compelled to, and did, pay a general average loss of.....dollars.

5. On the.....day of....., 19.., he furnished the defendant with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. The defendant has not paid the said loss.

[Demand of judgment.]

No. 53.

PARTICULAR AVERAGE LOSS.

(Title.)

A. B., the above-named plaintiff, states as follows:

1 and 2. [As in the last preceding form.]

3. On the.....day of....., 19.., while on the high seas, the sea water broke into the said ship, and damaged the said [cotton] to the amount of.....dollars.

4 and 5. [As in paragraphs 5 and 6 of the last preceding form.]

[Demand of judgment.]

No. 54.

ON A FIRE-INSURANCE POLICY.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. The plaintiff [was the owner of, or] had an interest in a [dwelling-house, known as No....., ...street, in the town of .....,] at the time of its destruction [or, injury] by fire as hereinafter mentioned.

2. On the.....day of....., 19.., at....., in consideration of.....dollars [to them paid], the defendants executed to the plaintiff a policy of insurance on the said [premises], a copy of which is hereto annexed [or state its tenor].

3. On the.....day of....., 19.., the said [dwelling-house] was totally destroyed [or greatly damaged] by fire.

4. The plaintiff's loss thereby was.....dollars.

5. On the.....day of....., 19.., he furnished the defendants with proof of his said loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. The defendants have not paid the said loss.

[Demand of judgment.]

No. 55.

AGAINST SURETY FOR PAYMENT OF RENT.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., one E. F. hired from the plaintiff, for the term of.....years, the [house No....., ...street, ...], at the annual rent of.....dollars, payable [monthly].

2. [At the same time and place] the defendant agreed, in consideration of the letting of the said premises to the said E. F., to guarantee the punctual payment of the said rent.

3. The rent aforesaid for the month of....., 19.., amounting to.....dollars has not been paid.

[If, by the terms of the agreement, notice is required to be given to the surety, add :—]

4. On the.....day of....., 19.., the plaintiff gave notice to the defendant of the non-payment of the said rent, and demanded payment thereof.

5. He has not paid the same.

[Demand of judgment.]

C.—PLAINTS FOR COMPENSATION FOR BREACH OF CONTRACT.

No. 56.

BREACH OF AGREEMENT TO CONVEY LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

[Or, on, etc., the defendant agreed with the plaintiff that, in consideration of a deposit of.....dollars then paid, and of the further sum of [ten thousand] dollars payable as hereinafter mentioned, he would, on the.....day of....., 19.., at....., execute to the plaintiff a sufficient conveyance of [the house No....., ...street, in the town of....., free from all incumbrances]; and the plaintiff agreed to pay [ten thousand] dollars for the same on delivery thereof.]

2. On the.....day of....., 19.., the plaintiff demanded the conveyance of the said property from the defendant and tendered .....dollars to the defendant [or, that all conditions were fulfilled, and all things happened, and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part].

3. The defendant has not executed any conveyance of the said property to the plaintiff [or, that there is a mortgage upon the said property, made by.....to....., for.....dollars, registered in the office of....., on the.....day of....., 19.., and still unsatisfied, or any other defect of title].

4. The plaintiff has thereby lost the use of the money paid by him as such deposit as aforesaid and of other moneys provided by him for the completion of the said purchase and has lost the expenses incurred by him in investigating the title of the defendant and in preparing to perform the agreement on his part, and has incurred expense in endeavouring to procure the performance thereof by the defendant.

5. The plaintiff prays judgment for.....dollars compensation.

No. 57.

BREACH OF AGREEMENT TO PURCHASE LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

[Or, on the.....day of....., 19.., at....., the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant and that the defendant should purchase from the plaintiff forty acres of land in the village of.....for.....dollars.]

2. On the.....day of....., 19.., at....., the plaintiff, being then the absolute owner of the said property [and the same being free from all incumbrances, as was made to appear to the defendant], tendered to the defendant a sufficient instrument of conveyance of the same [or, was ready and willing, and offered, to convey the same to the defendant by a sufficient instrument], on the payment by the defendant of the said sum.

3. The defendant has not paid the same.

[Demand of judgment.]

No. 58.

Another form.

NOT COMPLETING A PURCHASE OF IMMOVABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. By an agreement dated the.....day of....., 19.., it was agreed by and between the plaintiff and the defendant that the plaintiff should sell to the defendant and the defendant should purchase from the plaintiff a house and land at the price of..... dollars, upon the terms and conditions following (that is to say)—

(*a*) That the defendant should pay to the plaintiff a deposit of .....dollars in part of the said purchase-money on the signing of the said agreement, and the remainder on the .....day of....., 19.., on which day the said purchase should be completed.

(*b*) That the plaintiff should deduce and make a good title to the said premises on or before the.....day of....., 19.., and on payment of the said remainder of the said purchase-money as aforesaid should execute to the defendant a proper conveyance of the said premises, to be prepared at the defendant's expense.

2. All conditions were fulfilled, and all things happened, and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part, yet the defendant did not pay the plaintiff the remainder of the said purchase-money as aforesaid.

3. The plaintiff has thereby lost the expense which he incurred in preparing to perform the said agreement on his part, and has been put to expense in endeavouring to procure the performance thereof by the defendant.

[Demand of judgment.]

No. 59.

NOT DELIVERING GOODS SOLD.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., at....., the plaintiff and defendant mutually agreed that the defendant should deliver [one hundred barrels of flour] to the plaintiff [on the.....day of....., 19..,] and that the plaintiff should pay therefor.....dollars on delivery.

2. On the [said] day the plaintiff was ready and willing, and offered to pay the defendant the said sum upon delivery of the said goods.

3. The defendant has not delivered the same, whereby the plaintiff has been deprived of the profits which would have accrued to him from such delivery.

[Demand of judgment.]

No. 60.

BREACH OF CONTRACT TO EMPLOY.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., at....., the plaintiff and defendant mutually agreed that the plaintiff should serve the defendant as [an accountant, or in the capacity of foreman, or as the case may be, and that the defendant should employ the plaintiff as such, for the term of [one year], and pay him for his services..... dollars [monthly].

2. On the.....day of....., 19.., the plaintiff entered upon the service of the defendant as aforesaid, and has ever since been, and still is, ready and willing to continue in such service during the remainder of the said year, whereof the defendant always has notice.

3. On the.....day of....., 19.., the defendant wrongfully discharged the plaintiff, and refused to permit him to serve as aforesaid. or to pay him for his services.

[Demand of judgment.]

No. 61.

BREACH OF CONTRACT TO EMPLOY, WHERE THE EMPLOYMENT NEVER TOOK EFFECT.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. [As in last preceding form.]

2. On the.....day of....., 19.., at....., the plaintiff offered to enter upon the service of the defendant, and has ever since been ready and willing so to do.

3. The defendant refused to permit the plaintiff to enter upon such service, or to pay him for his services.

[Demand of judgment.]

No. 62.

BREACH OF CONTRACT TO SERVE.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., at....., the plaintiff and defendant mutually agreed that the plaintiff should employ the defendant at an [annual] salary of.....dollars, and that the defendant should serve the plaintiff as [an artist] for the term of [one year].

2. The plaintiff has always been ready and willing to perform his part of the said agreement [and on the.....day of....., 19.., offered so to do].

3. The defendant [entered upon] the service of the plaintiff on the above-mentioned day, but afterwards, on the.....day of....., 19.., he refused to serve the plaintiff as aforesaid.

[Demand of judgment].

No. 63.

AGAINST A BUILDER FOR DEFECTIVE WORKMANSHIP.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the plaintiff and defendant entered into an agreement, of which a copy is hereto annexed.

[Or state the tenor of the contract.]

[2. The plaintiff duly performed all the conditions of the said agreement on his part.]

3. The defendant [built the house referred to in the said agreement in a bad and unworkmanlike manner].

[Demand of judgment.]

No. 64.

BY THE MASTER AGAINST THE FATHER OR GUARDIAN OF AN APPRENTICE.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant entered into an agreement, under his hand, a copy of which is hereto annexed.

[Or state the tenor of the contract.]

2. After the making of the said agreement the plaintiff received the said [apprentice] into his service as such apprentice for the term aforesaid, and has always performed and been ready and willing to perform all things in the said agreement on his part to be performed.

3. On the.....day of....., 19.., the said [apprentice] wilfully absented himself from the service of the plaintiff, and continues so to do.

[Demand of judgment.]

No. 65.

BY THE APPRENTICE AGAINST THE MASTER.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant entered into an agreement with the plaintiff and his [father], E. F., under their hands, a copy of which is hereto annexed.

2. After the making of the said agreement the plaintiff entered into the service of the defendant with him after the manner of an apprentice to serve for the term mentioned in the said agreement, and has always performed all things in the said agreement contained on his part to be performed.

3. The defendant has not [instructed the plaintiff in the business of....., or state any other breach, such as cruelty, failure to provide sufficient food, or other ill-treatment].

[Demand of judgment.]

No. 66.

ON A BOND FOR THE FIDELITY OF A CLERK.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., at....., plaintiff employed one E. F. as a clerk.

2. On the.....day of....., 19, at....., the defendant agreed with the plaintiff that if the said E. F. should not faithfully perform his duties as a clerk to the plaintiff, or should fail to account to the plaintiff for all moneys, evidences of debt, or other property received by him for the use of the plaintiff, the defendant would pay to the plaintiff whatever loss he might sustain by reason thereof, not exceeding.....dollars.

[Or, 2. At the same time and place, the defendant bound himself to the plaintiff, by a writing under his hand, in the penal sum of.....dollars, conditioned that if the said E. F. should faithfully perform his duties as clerk and cashier to the plaintiff, and should justly account to the plaintiff for all moneys, evidences of debt, or other property which should be at any time held by him in trust for the plaintiff, the same should be void but not otherwise.]

[Or, 2. At the same time and place the defendant executed to the plaintiff a bond, a copy of which is hereto annexed.]

3. Between the.....day of....., 19.., and the.....day of ....., 19.., the said E. F. received money and other property, amounting to the value of.....dollars, for the use of the plaintiff, for which he has not accounted to him, and the same still remains due and unpaid.

[Demand of judgment.]

No. 67.

BY TENANT AGAINST LANDLORD, WITH SPECIAL DAMAGE.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., at....., the defendant, by an instrument in writing, let to the plaintiff [the house No....., ...street], for the term of.....years, contracting with the plaintiff that he, the plaintiff, and his legal representative should quietly enjoy possession thereof for the said term.

2. All conditions were fulfilled and all things happened necessary to entitle the plaintiff to maintain this suit.

3. On the.....day of.....during the said term, one E. F., who was the lawful owner of the said house, lawfully evicted the plaintiff therefrom, and still withholds the possession thereof from him.

4. The plaintiff was thereby [prevented from continuing the business of a tailor at the said place, was compelled to expend..... dollars in moving, and lost the custom of G. H. and I. J. by such removal].

[Demand of judgment.]

No. 68.

BREACH OF WARRANTY OF MOVABLES.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., at....., the defendant warranted a steam-engine to be in good working order, and thereby induced the plaintiff to purchase the same of him, and to pay him.....dollars therefor.

2. The said engine was not then in good working order, whereby the plaintiff incurred expense in having the said engine repaired, and lost the profits which could otherwise have accrued to him while the engine was under repair.

[Demand of judgment.]

No. 69.

ON AN AGREEMENT OF INDEMNITY.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., at....., the plaintiff and defendant, being partners in trade under the firm of A. B. and C. D., dissolved the said partnership, and mutually agreed that the defendant should take and keep all the partnership property, pay all debts of the firm, and indemnify the plaintiff against all claims that might be made upon him on account of any indebtedness of the said firm.

2. The plaintiff duly performed all the conditions of the said agreement on his part.

3. On the.....day of....., 19.., [a judgment was recovered against the plaintiff and defendant by one E. F., in the Court of.... at....., upon a debt due from the said firm to the said E. F., and on the.....day of....., 19..,] the plaintiff paid.....dollars [in satisfaction of the same].

4. The defendant has not paid the same to the plaintiff.

[Demand of judgment.]

No. 70.

BY SHIPOWNER AGAINST FREIGHTOR FOR NOT LOADING.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., at....., the plaintiff and defendant entered into an agreement, a copy of which is hereto annexed.

[Or, 1. On....., at....., the plaintiff and defendant agreed by charter-party that the defendant should deliver to the plaintiff's ship....., at....., on the.....day of....., 19.., five hundred

tons of merchandise, which she should carry to....., and there deliver, on payment of.....freight; and that the defendant should have.....days for loading,.....days for discharge, and....days for demurrage, if required, at.....dollars per day.]

2. At the time fixed for the said agreement the plaintiff was ready and willing, and offered, to receive [the said merchandise, or, the merchandise mentioned in the said agreement] from the defendant.

3. The period allowed for loading and demurrage has elapsed, but the defendant has not delivered the said merchandise to the said vessel.

Wherefore, the plaintiff demands judgment for.....dollars for demurrage and.....dollars additional for compensation.

D.—PLAINTS FOR COMPENSATION FOR WRONGS.

No. 71.

TRESPASS ON LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant entered upon certain land of the plaintiff, known as.....[and depastured the same with cattle, trod down the grass, cut the timber, and otherwise injured the same].

[Demand of judgment.]

No. 72.

TRESPASS IN ENTERING A DWELLING-HOUSE.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. The defendant entered a dwelling-house of the plaintiff, called ....., and made a noise and disturbance therein for a long time, and broke open the doors of the said dwelling-house, and removed, took, and carried away the fixtures and goods of the plaintiff therein, and disposed of the same to the defendant's own use, and expelled the plaintiff and his family from the possession of the said dwelling-house, and kept them so expelled for a long time.

2. The plaintiff was thereby prevented from carrying on his business, and incurred expense in procuring another dwelling-house for himself and family.

[Demand of judgment.]

No. 73.

TRESPASS ON MOVABLES.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant broke open ten barrels of rum belonging to the plaintiff, and emptied

their contents into the street [or, seized and took the plaintiff's goods, that is to say, iron, rice, and household furniture, or as the case may be, and carried away the same and disposed of them to his own use].

[Or, seized and took the plaintiff's cows and bullocks, and impounded them and kept them impounded for a long time.]

2. The plaintiff was thereby deprived of the use of the cows and bullocks during that time, and incurred expense in feeding them and in getting them restored to him; and was also prevented from selling them at.....fair, as he otherwise would have done, and the said cows and bullocks are diminished in value to the plaintiff [otherwise, state the injury according to the facts].

[Demand of judgment.]

No. 74.

CONVERSION OF MOVABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., the plaintiff was in possession of certain goods described in the schedule hereto annexed [or, of one thousand barrels of flour].

2. On that day, at....., the defendant converted the same to his own use, and wrongfully deprived the plaintiff of the use and possession of the same.

[Demand of judgment.]

The Schedule.

No. 75.

AGAINST A WAREHOUSEMAN FOR REFUSAL TO DELIVER GOODS.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant, in consideration of the payment to him of.....dollars [or, ... dollars per barrel, per month, etc.], agreed to keep in his godown [one hundred barrels of flour] and to deliver the same to the plaintiff on payment of the said sum.

2. Thereupon the plaintiff deposited with the defendant the said [hundred barrels of flour].

3. On the.....day of....., 19.., the plaintiff requested the defendant to deliver the said goods, and tendered him.....dollars [or the full amount of storage due thereon], but the defendant refused to deliver the same.

4. The plaintiff was thereby prevented from selling the said goods to E. F., and the same are lost to the plaintiff.

[Demand of judgment.]

No. 76.

PROCURING PROPERTY BY FRAUD.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant, for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he, the defendant, was solvent, and worth.....dollars over all his liabilities].

2. The plaintiff was thereby induced to sell [and deliver] to the defendant [dry goods] of the value of.....dollars.

3. The said representations were false [or, state the particular falsehoods] and were then known by the defendant to be so.

4. The defendant has not paid for the said goods. [Or, if the goods were not delivered, the plaintiff, in preparing and shipping the said goods and procuring their restoration expended..... dollars.]

[Demand of judgment.]

No. 77.

FRAUDULENTLY PROCURING CREDIT TO BE GIVEN TO ANOTHER PERSON.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant represented to the plaintiff that one E. F. was solvent and in good credit, and worth.....dollars over all his liabilities [or, that E. F. then held a responsible situation and was in good circumstances, and might safely be trusted with goods on credit].

2. The plaintiff was thereby induced to sell to the said E.F. [rice] of the value of.....dollars [on.....month's credit].

3. The said representations were false and were then known by the defendant to be so, and were made by him with intent to deceive and defraud the plaintiff [or, to deceive and injure the plaintiff].

4. The said E. F. [did not pay for the said goods at the expiration of the credit aforesaid, or] has not paid for the said rice, and the plaintiff has wholly lost the same by reason of the premises.

[Demand of judgment.]

No. 78.

POLLUTING THE WATER UNDER THE PLAINTIFF'S LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. The plaintiff is, and at all the times hereinafter mentioned was, possessed of certain land called.....and situate in....., and

of a well therein, and of water in the said well, and was entitled to the use and benefit of the said well and of the said water therein, and to have certain springs and streams of water which flowed and ran into the said well to supply the same to flow or run without being fouled or polluted.

2. On the.....day of....., 19.., the defendant wrongfully fouled and polluted the said well and the said water therein and the said springs and streams of water which flowed into the said well.

3. By reason of the premises the said water in the said well became impure and unfit for domestic and other necessary purposes, and the plaintiff and his family are deprived of the use and benefit of the said well and water.

[Demand of judgment.]

No. 79.

CARRYING ON A NOXIOUS MANUFACTURE.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. The plaintiff is, and at all the times hereinafter mentioned was, possessed of certain lands called.....situate in.....

2. Ever since the.....day of....., 19.., the defendant has wrongfully caused to issue from certain smelting works carried on by the defendant large quantities of offensive and unwholesome smoke and other vapours and noxious matter, which spread themselves over and upon the said lands, and corrupted the air, and settled on the surface of the said lands.

3. Thereby the trees, hedges, herbage, and crops of the plaintiff growing on the said lands were damaged and deteriorated in value, and the cattle and live-stock of the plaintiff on the said lands became unhealthy, and divers of them were poisoned and died.

4. By reason of the premises the plaintiff was unable to depasture the said lands with cattle and sheep as he otherwise might have done, and was obliged to remove his cattle, sheep, and farming-stock therefrom, and has been prevented from having so beneficial and healthy a use and occupation of the said lands as he otherwise would have had.

[Demand of judgment.]

No. 80.

OBSTRUCTING A WAY.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. The plaintiff is, and at the time hereinafter mentioned was, possessed of [a house in the village of.....].

2. He was entitled to a right of way from the said [house] over a certain field to a public highway and back again from the said highway over the said field to the said house, for himself and his servants [with vehicles, or, on foot] at all times of the year.

3. On the.....day of....., 19.., the defendant wrongfully obstructed the said way, so that the plaintiff could not pass [with vehicles, or, on foot, or, in any manner] along the said way [and has ever since wrongfully obstructed the same].

4. [State special damage, if any.]

[Demand of judgment.]

Another form.

1. The defendant wrongfully dug a trench and heaped up earth and stones in the public highway leading from.....to.....so as to obstruct it.

2. Thereby the plaintiff, while lawfully passing along the said highway, fell over the said earth and stones [or, into the said trench] and broke his arm, and suffered great pain, and was prevented from attending to his business for a long time, and incurred expense for medical attendance.

[Demand of judgment.]

No. 81.

DIVERTING A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. The plaintiff is, and at the time hereinafter mentioned was, possessed of a mill situated on a [stream] known as the....., in the village of....., district of.....

2. By reason of such possession the plaintiff was entitled to the flow of the said stream for working the said mill.

3. On the.....day of....., 19.., the defendant, by cutting the bank of the said stream, wrongfully diverted the water thereof, so that less water ran into the plaintiff's mill.

4. By reason thereof the plaintiff has been unable to grind more than.....sacks per day, whereas, before the said diversion of water, he was able to grind.....sacks per day.

[Demand of judgment.]

No. 82.

OBSTRUCTING A RIGHT TO USE WATER FOR IRRIGATION.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. The plaintiff is, and was at the time hereinafter mentioned, possessed of certain lands situate, etc., and entitled to take and use a portion of the water of a certain stream for irrigating the said lands.

2. On the.....day of....., 19.., the defendant prevented the plaintiff from taking and using the said portion of the said water as aforesaid, by wrongfully obstructing and diverting the said stream.

[Demand of judgment.]

No. 83.

WASTE BY A LESSEE.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., the defendant hired from him [the house No....., ...street] for the term of.....

2. The defendant occupied the same under such hiring.

3. During the period of such occupation the defendant greatly injured the premises [defaced the walls, tore up the floors, and broke down the doors; or otherwise specify the injuries as far as possible.]

The plaintiff prays judgment for.....dollars compensation.

No. 84.

ASSAULT AND BATTERY.

(Title.)

A. B., the above-named plaintiff, states as follows:

On the.....day of....., 19.., at....., the defendant assaulted and beat him.

The plaintiff prays judgment for.....dollars compensation.

No. 85.

ASSAULT AND BATTERY, WITH SPECIAL DAMAGE.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., ..., at....., the defendant assaulted and beat him until he became insensible.

2. The plaintiff was thereby disabled from attending to his business for [six weeks thereafter], and was compelled to pay..... dollars for medical attendance, and has been ever since disabled [from using his right arm]. [Or otherwise state the damage, as the case may be.]

[Demand of judgment.]

No. 86.

ASSAULT AND FALSE IMPRISONMENT.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant assaulted the plaintiff and imprisoned him for.....days [or hours]; [state special damage, if any, thus—].

2. By reason thereof the plaintiff suffered great pain of body and mind and was exposed and injured in his credit and circumstances, and was prevented from carrying on his business and from providing for his family by his personal care and attention, and incurred expense in obtaining his liberation from the said imprisonment [or otherwise as the case may be].

[Demand of judgment.]

No. 87.

INJURIES CAUSED BY NEGLIGENCE ON A RAILWAY.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., the defendants were carriers of passengers by railway between.....and.....

2. On that day the plaintiff was a passenger in one of the carriages of the defendants on the said road.

3. While he was such passenger, at.....[or, near the station of..... ; or, between the stations of.....and.....], a collision occurred on the said railway, caused by the negligence and unskilfulness of the defendants' servants, whereby the plaintiff was much injured [having his leg broken, his head cut, etc., and state the special damage, if any, as], and incurred expense for medical attendance, and is permanently disabled from carrying on his former business as [a salesman].

[Demand of judgment.]

[Or thus:—2. On that day the defendants by their servants so negligently and unskilfully drove and managed an engine and a train of carriages attached thereto upon and along the defendants' railway which the plaintiff was then lawfully crossing, that the said engine and train were driven against the plaintiff, whereby, etc., as in § 3.]

No. 88.

INJURIES CAUSED BY NEGLIGENT DRIVING.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. The plaintiff is a shoemaker, carrying on business at..... The defendant is a merchant of.....

2. On the.....day of....., 19.., the plaintiff was walking eastward along.....road in the town of....., at about 3 o'clock in the afternoon. He was obliged to cross.....street, which is a street running into.....road at right angles. While he was crossing this street, and just before he could reach the foot-pavement on the further side thereof, a carriage of the defendant's drawn by two horses, under the charge and control of the defendant's servants, was negligently, suddenly, and without any warning turned at a rapid and dangerous pace out of.....street into.....road. The pole of the carriage struck the plaintiff and knocked him down, and he was much trampled by the horses.

3. By the blow and fall and trampling the plaintiff's left arm was broken, and he was bruised and injured on the side and back, as well as internally, and in consequence thereof the plaintiff was for four months ill and in suffering, and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

The plaintiff claims.....dollars damages.

(Title.)

WRITTEN STATEMENT OF DEFENDANT.

1. The defendant denies that the carriage mentioned in the plaint was the defendant's carriage, or that it was under the charge or control of the defendant's servants. The carriage belonged to [Messrs. E. F. and G. H.] of.....street, ..., livery stable-keepers, employed by the defendant to supply him with carriages and horses, and the person under whose charge and control the said carriage was was the servant of the said [Messrs. E. F. and G. H.].

2. The defendant does not admit that the said carriage was turned out of.....street either negligently, suddenly, or without warning, or at a rapid or dangerous pace.

3. The defendant says that the plaintiff might and could, by the exercise of reasonable care and diligence, have seen the said carriage approaching him, and avoided any collision with it.

4. The defendant does not admit the statements of the third paragraph of the plaint.

No. 89.

LIBEL; THE WORDS BEING LIBELLOUS IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant published in a newspaper, called the.....[or, in a letter addressed to E. F.], the following words concerning the plaintiff—

[Set forth the words used.]

2. The said publication was false and malicious.

[Demand of judgment.]

No. 90.

LIBEL; THE WORDS NOT BEING LIBELLOUS IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. The plaintiff [is, and] was, on and before the.....day of ....., 19.., a merchant doing business in the town of.....

2. On the.....day of....., 19.., at....., the defendant published in a newspaper, called the.....[or, in a letter addressed to E. F., or otherwise how published], the following words concerning the plaintiff—

["A. B., of this town, has modestly retired to foreign lands. It is said that creditors to the amount of.....dollars are anxiously seeking his address."]

3. The defendant meant thereby that [the plaintiff had absconded to avoid his creditors, and with intent to defraud them].

4. The said publication was false and malicious.

[Demand of judgment.]

No. 91.

SLANDER; THE WORDS BEING ACTIONABLE IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant falsely and maliciously spoke, in the hearing of E. F. [or sundry persons], the following words concerning the plaintiff—["He is a thief"].

2. In consequence of the said words the plaintiff lost his situation as.....in the employ of.....

[Demand of judgment.]

No. 92.

SLANDER; THE WORDS NOT BEING ACTIONABLE IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant falsely and maliciously said to one E. F. concerning the plaintiff—["He is a young man of remarkably easy conscience"].

2. The plaintiff was then seeking employment as a clerk, and the defendant meant, by the said words, that the plaintiff was not trustworthy as a clerk.

3. In consequence of the said words [the said E. F. refused to employ the plaintiff as a clerk].

[Demand of judgment.]

No. 93.

MALICIOUS PROSECUTION.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. On the.....day of....., 19.., at....., the defendant obtained a warrant of arrest from.....[a Magistrate of the said town, or, as the case may be], on a charge of....., and the plaintiff was arrested thereon, and imprisoned for.....[days, or hours, and gave bail in the sum of.....dollars to obtain his release.]

2. In so doing the defendant acted maliciously and without reasonable or probable cause.

3. On the.....day of....., 19.., the said Magistrate dismissed the complaint of the defendant and acquitted the plaintiff.

4. Many persons, whose names are unknown to the plaintiff, hearing of the said arrest, and supposing the plaintiff to be a criminal, have ceased to do business with him; or, in consequence of the said arrest, the plaintiff lost his situation as clerk to one E. F.; or, by reason of the premises the plaintiff suffered pain of body and

mind and was prevented from transacting his business, and was injured in his credit, and incurred expense in obtaining his release from the said imprisonment and in defending himself against the said complaint.

[Demand of judgment.]

E.—PLAINTS IN SUITS FOR SPECIFIC PROPERTY.

No. 94.

BY THE ABSOLUTE OWNER FOR THE POSSESSION OF IMMOVABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. X. Y. was the absolute owner [of the estate, called....., situate in the district of....., and of the estimated value of..... dollars ; or, of the house No....., ...street, in the town of ....., the estimated value of which is.....dollars].

2. On the.....day of....., 19.., Z. illegally dispossessed the said X. Y. of the said estate [or house].

3. The said X. Y. has since died intestate, leaving the plaintiff, the said A. B., his heir, him surviving.

4. The defendant withholds the possession of the estate [or house] from the plaintiff.

The plaintiff prays judgment—

(1) For the possession of the said premises ;

(2) For.....dollars compensation for withholding the same.

Another form.

A. B., the above-named plaintiff, states as follows :

1. On the.....day of.....the plaintiff, by an instrument in writing, let to the defendant a house and premises [No. 52, ... street, in the.....] for a term of five years from the.....day of ....., at the monthly rent of 300 dollars.

2. By the said instrument the defendant covenanted to keep the said house and premises in good and tenantable repair.

3. The said instrument also contained a clause of re-entry, entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved, whether demanded or not, should be in arrear for twenty-one days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.

4. On the.....day of....., 19.., a month's rent became due, and on the.....day of....., 19.., another month's rent became due ; on the.....day of....., 19.., both had been in arrear for twenty-one days and both are still due.

5. On the same.....day of....., 19.., the house and premises were not and are not now in good or tenantable repair, and it would

require the expenditure of a large sum of money to reinstate the same in good and tenantable repair, and the plaintiff's reversion is much depreciated in value. The plaintiff claims—

(1) Possession of the said house and premises ;

(2) .....dollars for arrears of rent ;

(3) .....dollars compensation for the defendant's breach of his covenant to repair ;

(4) .....dollars for the occupation of the house and premises from the.....day of....., 19.., to the day of recovering possession.

No. 95.

BY THE TENANT.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. One E. F. is the absolute owner of [a piece of land in the town of....., bounded as follows :.....], the estimated value of which is.....dollars.

2. On the.....day of....., 19.., the said E. F. let the said premises to the plaintiff for.....years, from.....

3. The defendant withholds the possession thereof from the plaintiff.

[Demand of judgment.]

No. 96.

MOVABLE PROPERTY WRONGFULLY TAKEN.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., plaintiff owned [or was possessed of] one hundred barrels of flour, the estimated value of which is.....dollars.

2. On that day, at....., the defendant took the same.

The plaintiff prays judgment—

(1) For the possession of the said goods, or for.....dollars in case such possession cannot be had ;

(2) For.....dollars compensation for the detention thereof.

No. 97.

MOVABLES WRONGFULLY DETAINED.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., plaintiff owned [or, state facts shewing a right to the possession] the goods mentioned in the schedule hereto annexed [or describe the goods], the estimated value of which is.....dollars.

2. From that day until the commencement of this suit the defendant has detained the same from the plaintiff.

3. Before the commencement of this suit—to wit, on the..... day of....., 19..—the plaintiff demanded the same from the defendant, but he refused to deliver them.

The plaintiff prays judgment—

(1) For the possession of the said goods, or for.....dollars in case such possession cannot be had ;

(2) For.....dollars compensation for the detention thereof.

The Schedule.

No. 98.

AGAINST A FRAUDULENT PURCHASER AND HIS TRANSFEREE WITH NOTICE.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., at....., the defendant [C. D.], for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he was solvent, and worth .....dollars over all his liabilities].

2. The plaintiff was thereby induced to sell and deliver to the said C. D. [one hundred boxes of tea], the estimated value of which is .....dollars.

3. The said representations were false, and were then known by the said C. D. to be so. [Or, That at the time of making the said representations, the said C. D. was insolvent, and knew himself to be so.]

4. The said C. D. afterwards transferred the said goods to the defendant E. F. without consideration [or who had notice of the falsity of the representation].

The plaintiff prays judgment—

(1) For the possession of the said goods, or for.....dollars in case such possession cannot be had ;

(2) For.....dollars compensation for the detention thereof.

F.—PLAINTS IN SUITS FOR SPECIAL RELIEF.

No. 99.

FOR RESCISSION OF A CONTRACT ON THE GROUND OF MISTAKE.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., the defendant represented to the plaintiff that a certain piece of ground belonging to the defendant, situated at....., contained [ten acres]

2. The plaintiff was thereby induced to purchase the same at the price of.....dollars in the belief that the said representation was true, and signed an instrument of agreement, of which a copy is hereto annexed. But no conveyance of the same has been executed to him.

3. On the.....day of....., 19.., the plaintiff paid the defendant.....dollars as part of such purchase-money.

4. The said piece of ground contained in fact only [five acres].

The plaintiff prays judgment—

(1) For.....dollars with interest from the.....day of....., 19.. ;

(2) That the said agreement of purchase be delivered up and cancelled.

No. 100.

FOR AN INJUNCTION RESTRAINING WASTE.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. The plaintiff is the absolute owner of [describe the property].

2. The defendant is in possession of the same under a lease from the plaintiff.

3. The defendant has [cut down a number of valuable trees, and threatens to cut down many more for the purpose of sale] without the consent of the plaintiff.

The plaintiff prays judgment that the defendant be restrained by injunction from committing or permitting any further waste on the said premises.

[Pecuniary compensation might also be prayed.]

No. 101.

FOR ABATEMENT OF A NUISANCE.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. The plaintiff is, and at all the times hereinafter mentioned was, the absolute owner of [the house No....., ...street, ...].

2. The defendant is, and at all the said times was, the absolute owner of [a plot of ground in the same street.....].

3. On the.....day of....., 19.., the defendant erected upon his said plot a slaughter-house, and still maintains the same ; and from that day until the present time has continually caused cattle to be brought and killed there [and has caused the blood and offal to be thrown into the street opposite the said house of the plaintiff].

4. [The plaintiff has been compelled, by reason of the premises, to abandon the said house, and has been unable to rent the same.]

The plaintiff prays judgment that the said nuisance be abated.

No. 102.

FOR AN INJUNCTION AGAINST THE DIVERSION OF A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows :

[As in Form No. 81.]

The plaintiff prays judgment that the defendant be restrained by injunction from diverting the water as aforesaid.

No. 103.

FOR RESTORATION OF MOVABLE PROPERTY THREATENED WITH DESTRUCTION, AND FOR AN INJUNCTION.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. The plaintiff is, and at all times hereinafter mentioned was, the owner of [a portrait of his grandfather which was executed by an eminent painter], and of which no duplicate exists [or, state any facts shewing that the property is of a kind that cannot be replaced by money].

2. On the.....day of....., 19.., he deposited the same for safe keeping with the defendant.

3. On the..... day of....., 19.., he demanded the same from the defendant and offered to pay all reasonable charges for the storage of the same.

4. The defendant refuses to deliver the same to the plaintiff and threatens to conceal, dispose of, cut, or injure the same if required to deliver it up.

5. No pecuniary compensation would be an adequate compensation to the plaintiff for the loss of the [painting].

The plaintiff prays judgment—

(1) That the defendant be restrained by injunction from disposing of, injuring, or concealing the said [painting] ;

(2) That he return the same to the plaintiff.

No. 104.

INTERPLEADER.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. Before the date of the claims hereinafter mentioned one G. H. deposited with the plaintiff [describe the property] for [safekeeping].

2. The defendant C. D. claims the same under [an alleged assignment thereof to him from the said G. H.].

3. The defendant E. F. also claims the same [under an order of the said G. H. transferring the same to him].

4. The plaintiff is ignorant of the respective rights of the defendants.

5. He claims no interest in the said property, other than for charges and costs, and is ready and willing to deliver it to such persons as the Court shall direct.

6. This suit is not brought by collusion with either of the defendants.

The plaintiff prays judgment—

(1) That the defendants be restrained, by injunction, from taking any proceedings against the plaintiff in relation thereto ;

(2) That they be required to interplead together concerning their claims to the said property ;

[(3) That some person be authorized to receive the said property pending such litigation ;]

(4) That upon delivering the same to such [person] the plaintiff be discharged from all liability to either of the defendants in relation thereto.

No. 105.

ADMINISTRATION BY CREDITOR.

(Title.)

A. B., the above-named plaintiff, states as follows :

1. E. F., late of....., was at the time of his death, and his estate still is, indebted to the plaintiff in the sum of.....[here insert nature of debt and security, if any].

2. The said E. F. made his will, dated the.....day of....., and thereof appointed C. D. executor [or, devised his estate in trust, etc., or, died intestate, as the case may be].

3. The said will was proved by the said C. D. [or, letters of administration were granted, etc.].

4. The defendant has possessed himself of the movable [and immovable, or, the proceeds of the immovable] property of the said E. F. ; and has not paid the plaintiff his said debt.

5. The said E. F. died on or about the.....day of.....

6. The plaintiff prays that an account may be taken of the movable [and immovable] property of the said E. F., deceased, and that the same may be administered under the decree of the Court.

No. 106.

ADMINISTRATION BY SPECIFIC LEGATEE.

(Title.)

[Alter Form No. 105 thus :]

[Omit paragraph 1 and commence paragraph 2] E. F., late of ....., duly made his last will, dated the.....day of....., and thereof appointed C. D. executor, and by such will bequeathed to the plaintiff [here state the specific legacy].

For paragraph 4 substitute—

The defendant is in possession of the movable property of the said E. F., and, amongst other things, of the said [here name the subject of the specific bequest].

For the commencement of paragraph 6 substitute—

The plaintiff prays that the defendant may be ordered to deliver to him the said [here name the subject of the specific bequest], or that, etc.

No. 107.

ADMINISTRATION BY PECUNIARY LEGATEE.

(Title.)

[Alter Form No. 105 thus :]

[Omit paragraph 1 and substitute for paragraph 2] E. F., late of ....., duly made his last will, dated the.....day of....., and thereof appointed C. D. executor, and by such will bequeathed to the plaintiff a legacy of.....dollars.

In paragraph 4 substitute " legacy " for " debt."

Another form.

Between E. F.....Plaintiff,

and G. H.....Defendant.

E. F., the above-named plaintiff, states as follows :

1. A. B., of K., in the....., duly made his last will, dated the .....day of....., 19.., whereby he appointed the defendant and M. N. [who died in the testator's lifetime] executors thereof, and bequeathed his property, whether movable or immovable, to his executors in trust, to pay the rents and income thereof to the plaintiff for his life ; and after his decease, and in default of his having a son who should attain twenty-one, or a daughter who should attain that age or marry, upon trust as to his immovable property for the person who would be the testator's heir-at-law, and as to his movable property for the persons who would be the testator's next-of-kin if he had died intestate at the time of the death of the plaintiff, and such failure of his issue as aforesaid.

2. The testator died on the.....day of....., 19.., and his will was proved by the defendant on the.....day of....., 19.. The plaintiff has not been married.

3. The testator was at his death entitled to movable and immovable property ; the defendant entered into the receipt of the rents of the immovable property and got in the movable property ; he has sold some part of the immovable property.

The plaintiff claims—

(1) To have the movable and immovable property of A. B. administered in this Court, and for that purpose to have all proper directions given and accounts taken ;

(2) Such further or other relief as the nature of the case may require.

Between E. F.....Plaintiff,

and G. H.....Defendant.

WRITTEN STATEMENT OF DEFENDANT.

1. A. B.'s will contained a charge of debts ; he died insolvent ; he was entitled at his death to some immovable property which the defendant sold, and which produced the net sum of.....dollars. and the testator had some movable property which the defendant got in, and which produced the net sum of.....dollars.

2. The defendant applied the whole of the said sums and the sum of.....dollars, which the defendant received from rents of the immovable property, in the payment of the funeral and testamentary expenses and some of the debts of the testator.

3. The defendant made up his accounts and sent a copy thereof to the plaintiff on the.....day of....., 19.., and offered the plaintiff free access to the vouchers to verify such accounts, but he declined to avail himself of the defendant's offer.

4. The defendant submits that the plaintiff ought to pay the costs of this suit.

No. 108.

EXECUTION OF TRUSTS.

In the Court of.....at.....

Civil Suit No.....

A. B. of.....Plaintiff,

against

C. D. of....., the beneficiary [or one of the beneficiaries] } Defendant.

A. B., the above-named plaintiff, states as follows :

1. The plaintiff is one of the trustees under an instrument of settlement bearing date on or about the.....day of....., made upon the marriage of E. F. and G. H., the father and mother of the defendant [or, an instrument of assignment of the estate and effects of E. F. for the benefit of C. D., the defendant, and other the creditors of E. F.]

2. The plaintiff has taken upon himself the burden of the said trust, and is in possession of [or, of the proceeds of] the movable and immovable property conveyed [or assigned] by the before-mentioned deed.

3. The said C. D. claims to be entitled to a beneficial interest under the before-mentioned deed.

4. The plaintiff is desirous to account for all the rents and profits of the said immovable property [and the proceeds of the sale of the said, or of part of the said, immovable property, or movable property, or the proceeds of the sale of, or of part of, the said movable property, or the profits accruing to the plaintiff as such trustee in the execution of the said trust] ; and he prays that the

Court will take the accounts of the said trust, and also that the whole of the said trust-estate may be administered in the Court for the benefit of the said C. D., the defendant, and all other persons who may be interested in such administration, in the presence of the said C. D. and such other persons so interested as the Court may direct, or that the said C. D. may shew good cause to the contrary.

[*N.B.*—Where the suit is by a beneficiary, the plaint may be modelled, *mutatis mutandis*, on the plaint by a legatee.]

No. 109.

SPECIFIC PERFORMANCE. (NO. 1.)

(Title.)

A. B., the above-named plaintiff, states as follows :

1. By an agreement dated the.....day of....., and signed by the above-named defendant, C. D., he the said C. D. contracted to buy of [or sell to] him certain immovable property therein described and referred to, for the sum of.....dollars.

2. He has applied to the said C. D. specifically to perform the said agreement on his part, but he has not done so.

3. The said A. B. has been and still is ready and willing specifically to perform the agreement on his part of which the said C. D. has had notice.

4. The plaintiff prays that the Court will order the said C. D. specifically to perform the said agreement and to do all acts necessary to put the said A. B. in full possession of the said property [or to accept a conveyance and possession of the said property] and to pay the costs of the suit.

[*N.B.*—In suit for delivery up, to be cancelled, of any agreement, omit paragraphs 2 and 3, and substitute a paragraph stating generally the grounds for requiring the agreement to be delivered up to be cancelled—such as that the plaintiff signed it by mistake, under duress, or by the fraud of the defendant—and alter the prayer according to the relief sought.]

No. 110.

SPECIFIC PERFORMANCE. (NO. 2.)

(Title.)

A. B., the above-named plaintiff, states as follows :

1. On the.....day of....., 19.., the defendant was absolutely entitled to certain immovable property described in the agreement hereto annexed.

2. On the same day the plaintiff and defendant entered into an agreement, under their hands, a copy of which is hereto annexed.

3. On the.....day of....., 19.., the plaintiff tendered..... dollars to the defendant, and demanded a conveyance of the said property.

4. On the.....day of....., 19.., the plaintiff again demanded such conveyance. [Or, That the defendant refused to convey the same to the plaintiff.]

5. The defendant has not executed such conveyance.

6. The plaintiff is still ready and willing to pay the purchase-money of the said property to the defendant.

The plaintiff prays judgment—

(1) That the defendant execute to the plaintiff a sufficient conveyance of the said property [following the terms of the agreement];

(2) For.....dollars compensation for withholding the same.

No. 111.

PARTNERSHIP.

(Title.)

A. B., the above-named plaintiff, states as follows:

1. He and the said C. D., the defendant, have been for the space of .....years [or months] last past carrying on business together at....., within the jurisdiction of this Court, under certain articles of partnership in writing, signed by them respectively [or, under a certain deed sealed and executed by them respectively; or, under a verbal agreement between them, the said plaintiff and defendant].

2. Divers disputes and differences have arisen between the plaintiff and defendant as such partners, whereby it has become impossible to carry on the said business in partnership with advantage to the partners.

3. The plaintiff desires to have the said partnership dissolved, and he is ready and willing to bear his share of the debts and obligations of the partnership according to the terms of the said articles [or deed, or agreement].

4. The plaintiff prays the Court to decree a dissolution of the said partnership, and that the accounts of the said partnership-trading may be taken by the Court, and the assets thereof realized, and that each party may be ordered to pay into Court any balance due from him upon such partnership account, and that the debts and liabilities of the said partnership may be paid and discharged, and that the costs of the suit may be paid out of the partnership assets, and that any balance remaining of such assets, after such payment and discharge and the payment of the said costs, may be divided between the plaintiff and defendant according to the terms of the said articles [or deed, or agreement], or that, if the said assets shall prove insufficient, he the plaintiff and the said defendant may be ordered to contribute in such proportions as shall be just to a fund to be raised for the payment and discharge of such debts, liabilities, and costs. And to give such other relief as the Court shall think fit.

This plaint was filed by....., of....., solicitor for the plaintiff, ...[or by.....].

[*N.B.*—In suits for winding-up of any partnership, omit the prayer for dissolution; but instead thereof insert a paragraph stating the fact of the partnership having been dissolved.]

No. 112.

FORMS OF CONCISE STATEMENTS.

[Code of Civil Procedure, Section 49.]

The plaintiff's claim is $.....for money lent [and interest].	Money lent.
The plaintiff's claim is $.....whereof $.....is for the price of goods sold, and $.....for money lent, and $.....for interest.	Several demands.
The plaintiff's claim is $.....for arrears of rent.	Rent.
The plaintiff's claim is $.....for arrears of salary as a clerk [or, as the case may be].	Salary, etc.
The plaintiff's claim is $.....for interest upon money lent.	Interest.
The plaintiff's claim is $.....for a general average contribution.	General average.
The plaintiff's claim is $.....for freight and demurrage.	Freight, etc.
The plaintiff's claim is $.....for money deposited with the defendant as a banker.	Banker's balance.
The plaintiff's claim is $.....for fees for work done [and $..... money expended] as a solicitor.	Fees, etc., as solicitor.
The plaintiff's claim is $.....for commission earned as [state character—as auctioneer, cotton-broker, etc.].	Commission.
The plaintiff's claim is $.....for medical attendance.	Medical attendance.
The plaintiff's claim is $.....for a return of premiums paid upon policies of insurance.	Return of premium.
The plaintiff's claim is $.....for the warehousing of goods.	Warehouse-rent.
The plaintiff's claim is $.....for the carriage of goods by railway.	Carriage of goods.
The plaintiff's claim is $.....for the use and occupation of a house.	Use and occupation of house.
The plaintiff's claim is $.....for the hire of [furniture].	Hire of goods.
The plaintiff's claim is $.....for work done as a [surveyor].	Work done.
The plaintiff's claim is $.....for board and lodging.	Board and lodging.
The plaintiff's claim is $.....for the [board, lodging, and] tuition of X. Y.	Schooling.
The plaintiff's claim is $.....for money received by the defendant as solicitor [or factor, or collector, or etc.] of the plaintiff.	Money received.
The plaintiff's claim is.....for fees received by the defendant under colour of the office of.....	Fees of office.
The plaintiff's claim is $.....for a return of money overcharged for the carriage of goods by railway.	Money over paid.
The plaintiff's claim is $.....for a return of fees overcharged by the defendant as.....	
The plaintiff's claim is $.....for a return of money deposited with the defendant as stake-holder.	Return of money by stake-holder.
The plaintiff's claim is $.....for money entrusted to the defendant as stake-holder and become payable to the plaintiff.	Money won from stake-holder.
The plaintiff's claim is $.....for a return of money entrusted to the defendant as agent of the plaintiff.	Money entrusted to agent.

Money obtained by fraud.

The plaintiff's claim is $.....for a return of money obtained from the plaintiff by fraud.

Money paid by mistake.

The plaintiff's claim is $.....for a return of money paid to the defendant by mistake.

Money paid for consideration which has failed.

The plaintiff's claim is $.....for a return of money paid to the defendant for [work to be done, or, work left undone ; or, a bill to be taken up, or, a bill not taken up ; or, etc.].

Deposit on shares.

The plaintiff's claim is $.....for a return of money paid as a deposit upon shares to be allotted.

Money paid by surety for defendant.

The plaintiff's claim is $.....for money paid for the defendant as his surety.

Rent paid.

The plaintiff's claim is $.....for money paid for rent due by the defendant.

Money paid on accommodation bill.

The plaintiff's claim is $.....upon a bill of exchange accepted [or indorsed] for the defendant's accommodation.

Contribution by surety.

The plaintiff's claim is $.....for a contribution in respect of money paid by the plaintiff as surety.

By co-debtor.

The plaintiff's claim is $.....for a contribution in respect of a joint debt of the plaintiff and the defendant, paid by the plaintiff.

Money paid or calls.

The plaintiff's claim is $.....for money paid for calls upon shares, against which the defendant was bound to indemnify the plaintiff.

Money payable under award.

The plaintiff's claim is $.....for money payable under an award.

Life-policy.

The plaintiff's claim is $.....upon a policy of insurance upon the life of X. Y., deceased.

Money-bond.

The plaintiff's claim is $.....upon a bond to secure payment of $.....and interest.

Foreign judgment.

The plaintiff's claim is $.....upon a judgment of the..... Court in [the Empire of Japan].

Bills of exchange, etc.

The plaintiff's claim is $.....upon a cheque drawn by the defendant.

The plaintiff's claim is $.....upon a bill of exchange accepted [or drawn, or indorsed] by the defendant.

The plaintiff's claim is $.....upon a promissory note made [or indorsed] by the defendant.

The plaintiff's claim is $.....against the defendant A. B. as acceptor, and against the defendant C. D. as drawer [or indorser] of a bill of exchange.

Surety.

The plaintiff's claim is $.....against the defendant as surety for the price of goods sold.

The plaintiff's claim is $.....against the defendant A. B. as principal, and against the defendant C. D. as surety, for the price of goods sold [or for arrears of rent, or for money lent, or for money received by the defendant A. B. as traveller for the plaintiff, or etc.].

Calls.

The plaintiff's claim is $.....for calls upon shares.

INDORSEMENT FOR COSTS, ETC.

[Add to the above forms] and $.....for costs ; and if the amount claimed to be paid to the plaintiff or his solicitor within..... days [or if the summons is to be served out of the jurisdiction, insert

the time for appearance limited by the order] from the service hereof, further proceedings will be stayed.

DAMAGES AND OTHER CLAIMS.

The plaintiff's claim is for damages for breach of a contract to employ the plaintiff as traveller. Agent, etc.

The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller [and $.....for arrears of wages].

The plaintiff's claim is for damages for the defendant's wrongfully quitting the plaintiff's employment as manager.

The plaintiff's claim is for damages for breach of duty as factor [or, etc.,] of the plaintiff [and $.....for money received as factor, or, etc.].

The plaintiff's claim is for damages for breach of the terms of a deed of apprenticeship of X. Y. to the defendant [or plaintiff]. Apprentices.

The plaintiff's claim is for damages for non-compliance with the award of X. Y. Arbitration.

The plaintiff's claim is for damages for assault [and false imprisonment, and for malicious prosecution]. Assault, etc.

The plaintiffs' claim is for damages for assault and false imprisonment of the plaintiff, C. D. By husband and wife.

The plaintiff's claim is for damages for assault by the defendant, C. D. Against husband and wife.

The plaintiff's claim is for damages for injury by the defendant's negligence as solicitor of the plaintiff. Solicitor.

The plaintiff's claim is for damages for negligence in the custody of goods [and for wrongfully detaining the same]. Bailment.

The plaintiff's claim is for damages for negligence in the keeping of goods pawned [and for wrongfully detaining the same]. Pledge.

The plaintiff's claim is for damages for negligence in the custody of furniture [or a carriage] lent on hire [and for wrongfully, etc.]. Hire.

The plaintiff's claim is for damages for wrongfully neglecting [or refusing] to pay the plaintiff's cheque. Banker.

The plaintiff's claim is for damages for breach of a contract to accept the plaintiff's drafts. Bill.

The plaintiff's claim is upon a bond conditioned not to carry on the trade of a..... Bond.

The plaintiff's claim is for damages for refusing to carry the plaintiff's goods by railway. Carrier.

The plaintiff's claim is for damages for refusing to carry the plaintiff by railway.

The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of coals by railway.

The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of machinery by sea.

The plaintiff's claim is for damages for breach of charter-party of ship [*Mary*]. Charter-party.

Claim for return of goods; damages.

The plaintiff's claim is for return of household furniture [or, etc.] or their value, and for damages for detaining the same.

Damages for depriving of goods.

The plaintiff's claim is for wrongfully depriving plaintiff of goods, household furniture, etc.

Defamation.

The plaintiff's claim is for damages for libel.

The plaintiff's claim is for damages for slander.

Wrongful distress.

The plaintiff's claim is for damages for improperly distraining.

[This form shall be sufficient whether the distress complained of be wrongful, or excessive, or irregular.]

Ejectment.

The plaintiff's claim is to recover possession of a house, No..... in.....street, or of a farm called Blackacre, situate in the..... of.....in the.....of.....

To establish title and recover rents.

The plaintiff's claim is to establish his title to [here describe property] and to recover the rents thereof.

[The two previous forms may be combined.]

Fishery.

The plaintiff's claim is for damages for infringement of the plaintiff's right of fishing.

Fraud.

The plaintiff's claim is for damages for fraudulent misrepresentation on the sale of a horse [or a business, or shares, or, etc.]

The plaintiff's claim is for damages for fraudulent misrepresentation of the credit of A. B.

Guarantee.

The plaintiff's claim is for damages for breach of a contract of guarantee for A. B.

The plaintiff's claim is for damages for breach of a contract to indemnify the plaintiff as the defendant's agent to distrain.

Insurance.

The plaintiff's claim is for a loss under a policy upon the ship [*Royal Charter*], and freight of cargo [or for return of premiums].

[This form shall be sufficient whether the loss claimed be total or partial.]

Fire-insurance.

The plaintiff's claim is for a loss under a policy of fire-insurance upon house and furniture.

The plaintiff's claim is for damages for breach of a contract to insure a house.

Landlord and tenant.

The plaintiff's claim is for damages for breach of a contract to keep a house in repair.

The plaintiff's claim is for damages for breaches of covenants contained in a lease of a farm.

Medical man.

The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.

Mischievous animal.

The plaintiff's claim is for damages for injury by the defendant's dog.

Negligence.

The plaintiff's claim is for damages for injury to the plaintiff by the negligent driving of the defendant or his servants.

The plaintiff's claim is for damages for injury to the plaintiff while a passenger on the defendant's railway by the negligence of the defendant's servants.

The plaintiff's claim is for damages for injury to the plaintiff at the defendant's railway-station from the defective condition of the station.

The plaintiff's claim is as executor of A. B., deceased, for damages for the death of the said A. B. from injuries received while a passenger on the defendant's railway, by the negligence of the defendant's servants.

Promise of marriage.

The plaintiff's claim is for damages for breach of promise of marriage.

Sale of goods.

The plaintiff's claim is for damages for breach of contract to accept and pay for goods.

The plaintiff's claim is for damages for non-delivery [or short delivery, or defective quality, or other breach of contract of sale] of cotton [or, etc.].

Horse warranty.

The plaintiff's claim is for damages for breach of warranty of a horse.

Sale of land

The plaintiff's claim is for damages for breach of a contract to sell [or purchase] land.

The plaintiff's claim is for damages for breach of a contract to let [or take] a house.

The plaintiff's claim is for damages for breach of a contract to sell [or purchase] the lease, with goodwill, fixtures, and stock-in-trade of a public-house.

The plaintiff's claim is for damages for breach of covenant for title [or for quiet enjoyment, or, etc.] in a conveyance of land.

Trespass on land.

The plaintiff's claim is for damages for wrongfully entering the plaintiff's land and drawing water from his well [or cutting his grass, or felling his timber, or pulling down his fences, or removing his gate, or using his road or path, or crossing his field, or depositing sand there, or carrying away gravel from thence, or carrying away stones from his river].

Support.

The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [or house, or mine].

Way.

The plaintiff's claim is for damages for wrongfully obstructing a way [public highway, or private way].

Water-course, etc.

The plaintiff's claim is for damages for wrongfully diverting [or obstructing, or polluting, or diverting water from] a water-course.

The plaintiff's claim is for damages for wrongfully discharging water upon the plaintiff's land [or into the plaintiff's mine].

The plaintiff's claim is for damages for wrongfully obstructing the plaintiff's use of a well.

Pasture.

The plaintiff's claim is for damages for infringement of the plaintiff's right of pasture.

[This form shall be sufficient whatever the nature of the right to pasture be.]

Light.

The plaintiff's claim is for damages for obstructing the access of light to plaintiff's house.

Invention.

The plaintiff's claim is for damages for infringement of the plaintiff's grant of exclusive privileges in respect of an invention.

Copyright. The plaintiff's claim is for damages for infringement of the plaintiff's copyright.

Trade-mark. The plaintiff's claim is for damages for wrongfully using [or imitating] the plaintiff's trade-mark.

Work. The plaintiff's claim is for damages for breach of a contract to build a ship [or to repair a house, etc.].

The plaintiff's claim is for damages for breach of a contract to employ the plaintiff to build a ship, etc.

Nuisance. The plaintiff's claim is for damages to his house, trees, crops, etc., caused by noxious vapours from the defendant's factory [or, etc.].

The plaintiff's claim is for damages from nuisance by noise from the defendant's works [or stables, or, etc.].

Injunction. [Add to indorsement]:—and for an injunction.

[Add to indorsement where claim is to land, or to establish title, or both]—

Mesne profits. And for mesne profits.

Arrears of rent. And for an account of rents or arrears of rent.

Breach of covenant. And for breach of covenant for [repairs].

I.—CREDITOR TO ADMINISTER ESTATE.

The plaintiff's claim is as a creditor of X. Y., of....., deceased, to have the movable and immovable property of the said X. Y. administered. The defendant, C. D., is sued as the administrator of the said X. Y.

II.—LEGATEE TO ADMINISTER ESTATE.

The plaintiff's claim is as a legatee under the will dated the..... day of....., 19.., of X. Y. deceased, to have the movable and immovable property of the said X. Y. administered. The defendant, C. D., is sued as the executor of the said X. Y. [and the defendants E. F. and G. H. as his devisees].

III.—PARTNERSHIP.

The plaintiff's claim is to have an account taken of the partnership-dealings between the plaintiff and defendant [under articles of partnership dated the.....day of.....], and to have the affairs of the partnership wound up.

IV.—BY MORTGAGEE.

The plaintiff's claim is to have an account taken of what is due to him for principal, interest, and costs on a mortgage dated the .....day of....., made between [parties] [or, by deposit of title deeds], and that the mortgage may be enforced by foreclosure or sale.

V.—RAISING PORTIONS.

The plaintiff's claim is that the sum of $.....which, by a deed of settlement dated....., was provided for the portions of the younger children of.....may be raised.

VI.—EXECUTION OF TRUSTS.

The plaintiff's claim is to have the trusts of an indenture dated .....and made between [parties] carried into execution.

VII.—CANCELLATION OR RECTIFICATION.

The plaintiff's claim is to have a deed dated.....and made between [parties] set aside or rectified.

VIII.—SPECIFIC PERFORMANCE.

The plaintiff's claim is for specific performance of an agreement dated the.....day of.....for the sale by the plaintiff to the defendant of certain land at.....

No. 113.

PROBATE.

1.—BY AN EXECUTOR OR LEGATEE PROPOUNDING A WILL IN SOLEMN FORM.

The plaintiff claims to be executor of the last will, dated the .....day of....., of C. D., late of....., deceased, who died on the.....day of....., and to have the said will established. This summons is issued against you as one of the next-of-kin of the said deceased [or, as the case may be].

2.—BY AN EXECUTOR, OR LEGATEE OF A FORMER WILL, OR A NEXT-OF-KIN, ETC., OF THE DECEASED, SEEKING TO OBTAIN THE REVOCATION OF A PROBATE GRANTED IN COMMON FORM.

The plaintiff claims to be executor of the last will, dated the .....day of....., of C. D., late of....., deceased, who died on the.....day of....., and to have the probate of a pretended will of the said deceased, dated the.....day of....., revoked. This summons is issued against you as the executor of the said pretended will [or, as the case may be].

3.—BY AN EXECUTOR OR LEGATEE OF A WILL WHEN LETTERS OF ADMINISTRATION HAVE BEEN GRANTED AS IN AN INTESTACY.

The plaintiff claims to be executor of the last will of C. D., late of....., deceased, who died on the.....day of....., dated the.....day of.....

The plaintiff claims that the grant of letters of administration of the estate of the said deceased obtained by you should be revoked, and probate of the said will granted to him.

4.—BY A PERSON CLAIMING A GRANT OF ADMINISTRATION AS A NEXT-OF-KIN OF THE DECEASED, BUT WHOSE INTEREST AS NEXT-OF-KIN IS DISPUTED.

The plaintiff claims to be the brother and sole next-of-kin of C. D., of....., deceased, who died on the.....day of....., intestate, and to have as such a grant of administration to the property of the said intestate. This writ is issued against you because you have entered a caveat and have alleged that you are the sole next-of-kin of the deceased [or, as the case may be].

G.—MISCELLANEOUS.

No. 114.

Court of the.....of.....holden at.....

REGISTER OF CIVIL SUITS IN THE YEAR 19...

Date of presentation of plaint.	No. of suit.	Plaintiff.			Defendant.			Claim.			Appearance.			Judgment.			Appeal.		Execution.					Return of Execution.	
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Particulars.	Amount or value.	When the cause of action accrued.	Day for parties to appear.	Plaintiff.	Defendant.	Date.	For whom.	For what, or amount.	Date of appeal.	Judgment in appeal.	Date of application.	Date of order.	Against whom.	For what, and amount if money.	Amount of costs.	Amount paid into Court.	Minute of other return than payment and date of every return.

No. 115.

SUMMONS FOR DISPOSAL OF SUIT.

(Title.)

To.....dwelling at.....

Whereas.....has instituted a suit against you for....., you are hereby summoned to appear in this Court in person or by a duly authorized solicitor of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, on.....the.....day of....., 19.., at.....o'clock in the forenoon, to answer the above-named plaintiff; and, as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day; and you are hereby required to take notice that, in default of your appearance on the day before-mentioned, the suit will be heard and determined in your absence; and you will bring with you, or send by your solicitor....., which the plaintiff desires to inspect, and any documents on which you intend to rely in support of your defence.

Given under my hand and the seal of the Court, this.....day of....., 19..

[L.S.] ..... *Judge.*

NOTICE—1. Should you apprehend your witnesses will not attend of their own accord, you can have summons from this Court to compel the attendance of any witness, and the production of any document that you have a right to call upon the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

NOTE.—If written statements are required, say—You are [or such a party is, as the case may be] required to put in a written statement by the ..... day of....., ...

If the summons is for service out of the Federated Malay States, delete "will be heard and determined" and substitute "may by leave of the Court be heard and determined."

116.

SUMMONS FOR SETTLEMENT OF ISSUES.

(Title.)

To.....dwelling at.....

Whereas.....has instituted a suit against you for....., you are hereby summoned to appear in this Court in person or by a duly authorized solicitor of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied

NOTICE—1. Should you apprehend your witnesses will not attend of their own accord, you can have summons from this Court to compel the attendance of any witness, and the production of any document that you have a right to call on the witness to produce, on

applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

by some other person able to answer all such questions, on.....the..... day of....., 19.., at.....o'clock in the forenoon, to answer the above-named plaintiff; and you are hereby required to take notice that, in default of your appearance on the day before-mentioned, the issues will be settled in your absence; and you will bring with you, or send by your solicitor....., which the plaintiff desires to inspect, and any documents on which you intend to rely in support of your defence.

Given under my hand and the seal of the Court, this.....day of....., 19..

[L.S.] ..... *Judge.*

NOTE.—If written statements are required, say—You are [or such a party is, as the case may be] required to put in a written statement by the.....day of....., ...

No. 117.

SUMMONS TO APPEAR.

(Title.)

To.....

(Name, description, and address.)

Whereas [here enter the name, description, and address of the plaintiff] has instituted a suit in this Court against you [here state the particulars of the claim as in the register]: you are hereby summoned to appear in this Court in person on the.....day of ....., at.....in the forenoon. [If not specially required to appear in person, state—" in person or by a solicitor of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions "] to answer the above-named plaintiff [if the summons be for the final disposal of the suit, this further direction shall be added here; " and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day "]; and you are hereby required to take notice that, in default of your appearance on the day before-mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [here mention any document the production of which may be required by the plaintiff], which the plaintiff desires to inspect, and any documents on which you intend to rely in support of your defence.

Given under my hand and the seal of the Court, this.....day of....., 19...

.....

[L.S.] *Judge.*

No. 118.

ORDER FOR TRANSMISSION OF SUMMONS FOR SERVICE IN THE JURISDICTION OF ANOTHER COURT.

(Title.)

The.....day of....., 19...

Whereas it is stated in the plaint that....., the defendant in the above suit....., is at present residing in....., but that the right to sue accrued within the jurisdiction of this Court: it is ordered that a summons, returnable on the.....day of....., 19.., be forwarded for service on the said defendant to the Court of....., with a duplicate of this proceeding.

.....

[L.S.] *Judge.*

No. 119.

TO ACCOMPANY RETURNS OF SUMMONS OF ANOTHER COURT.

In the Court of.....at.....

Civil Suit No.....of 19...

The.....day of ....., 19...

A. B. of.....

against

C. D. of.....

Read the proceeding from the.....forwarding.....for service on.....in.....civil.....No.....of that Court.

Read bailiff's endorsement on the back of the process stating that the..... ; and proof of the above having been duly taken by me on the [oath or] affirmation of.....and.....it is ordered that the .....be returned to the.....with a copy of this proceeding.

.....

[L.S.] *Judge.*

NOTE.—This form will be applicable to process other than summons, the service of which may have to be effected in the same manner.

No. 120.

DEFENDANT'S STATEMENT.

(Title.)

I, the undersigned defendant, [or one of the defendants], disclaim all interest under the will of the said E. F. in the plaint named [or, as next-of-kin, or one of the next-of-kin, of E. F., deceased, in the said plaint named].

Or, I, the undersigned defendant state, that I admit [or deny] [here repeat in the language of the plaint the statements admitted or denied].

Or, I, the undersigned defendant, submit that, upon the facts stated in the plaint, it does not appear that there is any agreement which can be legally enforced [or, that it appears upon the said plaint that I am jointly liable with one E. F., who is not a party to the suit, and not severally liable as by the plaint appears; or, that it appears by the said plaint that G. H. should have been a joint-plaintiff with the said A. B. in the said suit; or, as the case may be].

Or, that since the dissolution of the partnership the plaintiff has executed an instrument, whereby the plaintiff covenants to discharge all debts and liabilities of the partnership, and generally to release me from all claims and liabilities either by or to himself and others in respect of the said partnership trading [or, as the case may be].

(Signed) C. D.,
Defendant.

No. 121.

INTERROGATORIES.

In the Court of.....at.....

Civil Suit No.....of 19...

A. B.

against

C. D., E. F., and G. H.

Interrogatories on behalf of the above-named A. B. [or C. D.] for the examination of the above-named E. F. and G. H. [or, A. B.].

1. Did not, etc.,.....

2. Has not, etc.,.....

The defendant E. F. is required to answer the interrogatories numbered.....

The defendant G. H. is required to answer the interrogatories numbered.....

No. 122.

FORM OF NOTICE TO PRODUCE DOCUMENTS.

(Title.)

Take notice that the plaintiff [or defendant] requires you to produce for his inspection the following documents referred to in your plaint [or written statement, or affidavit], dated the.....day of....., 19..

(Describe documents required.)

X. Y., Solicitor for the plaintiff [or the defendant].

To Z.,

Solicitor for the defendant [or plaintiff].

No. 123.

SUMMONS TO ATTEND AND GIVE EVIDENCE.

(Title.)

To.....

Whereas your attendance is required to.....on behalf of the .....in the above cause, you are hereby required [personally to appear before this Court] on the.....day of....., 19.., at the hour of.....a.m. [and] to bring with you or to send to this Court.....

A sum of $....., being your travelling and other expenses and subsistence-allowance for one day, is herewith sent. If you do not comply with this order, you will be subject to the consequence of non-attendance laid down in the Code of Civil Procedure.

NOTICE.—(1) If you are summoned only to produce a document and not to give evidence, you shall be deemed to have complied with the summons if you cause such document to be produced in this Court on the day and hour aforesaid.

(2) If you are to be detained beyond the day aforesaid a sum of $..... will be tendered to you for each day's attendance beyond the day specified.

Given under my hand and the seal of the Court, this.....day of ..... 19..,

.....

[L.S.] *Judge.*

No. 124.

Another form.

(Title.)

To.....

[Name, description, and address.]

You are hereby summoned to appear in this Court in person on the.....day of....., 19.., at....., in the forenoon, to give evidence on behalf of the plaintiff [or the defendant] in the above-mentioned suit, and to produce [here describe with convenient certainty any document the production of which may be required ; if the summons be only to give evidence, or if it be only to produce a document, it must be expressed accordingly], and you are not to depart thence until you have been examined [or have produced the document] and the Court has risen, unless you have obtained the leave of the Court.

FORMS OF DECREES.

No. 125.

SIMPLE MONEY-DECREES.

(Title.)

Claim for.....

This cause coming on.....for final disposal before.....in the presence of.....on the part of the plaintiff, and.....on the part of the defendant, it is ordered that the.....do pay to.....the

.....the sum of $....., with interest thereon at the rate of..... per cent. per....., from.....to the date of realization of the said sum, and do also pay to the.....the costs of this suit as taxed by the officer of the Court, with interest thereon at the rate aforesaid from the date of taxation to the date of realization.

COSTS OF SUIT.

Plaintiff.	——		Defendant.	——	
	$	c.		$	c.
1. Stamp for plaint .			Stamp for power ..		
2. ,, for power .			,, for petition..		
3. ,, for exhibits			Solicitor's fees ..		
4. Solicitor's fees ..			Subsistence for wit-		
5. Translation fee ..			nesses		
6. Subsistence for wit-			Service of process ..		
nesses			Translation fee ..		
7. Commissioner's fee			Commissioner's fee .		
8. Service of process					
9. Etc.					
Total ..			Total ..		

Given under my hand and the seal of the Court, this.....day of....., 19...

.....

[L.S.] *Judge.*

No. 126.

DECREE FOR A SALE IN A SUIT BY A PERSON ENTITLED TO A LIEN.

(Title.)

It is ordered that it be referred to the Registrar [or Taxing Officer] to take an account of what is due to the plaintiff for principal and interest on the lien mentioned in the plaint, and to tax the plaintiff's cost of this suit, and that the Registrar [or Taxing Officer] do declare in Court on the.....day of.....what he shall find to be due for principal and interest as aforesaid, and for costs ; And upon the defendant paying into Court what shall be certified to be due to the plaintiff for principal and interest as aforesaid, together with the said costs, within six months from the date of declaring in Court the amount so due, it is ordered that the plaintiff do deliver up to the defendant or to such person as he appoints all documents in his custody or power relating to the said lien, and that upon such documents being delivered up, the Registrar [or Taxing Officer] shall pay out to the plaintiff the said sum so paid in as aforesaid for principal, interest, and costs ; but in default of the defendant paying into Court such principal, interest, and costs as aforesaid by the

time aforesaid, then it is ordered that the said premises subject to the said lien be sold with the approbation of the Registrar [or Taxing Officer]. And it is ordered that the proceeds of such sale (after defraying thereout the expenses of the sale) be paid into Court, to the end that the same may be duly applied in payment of what shall be found due to the plaintiff for principal, interest, and costs as aforesaid, and that the balance (if any) shall be paid to the defendant or other person entitled to receive the same.

No. 127.

PRELIMINARY ORDER—ADMINISTRATION SUIT.

(Title.)

It is ordered that the following accounts and enquiries to be taken and made ; that is to say :

In creditor's suit—

1. That an account be taken of what is due to the plaintiff and all other the creditors of the deceased.

In suits by legatees—

2. An account be taken of the legacies given by the testator's will.

In suits by next-of-kin—

An enquiry be made and account taken of what, or of what share, if any, plaintiff is entitled to as next-of-kin [or one of the next-of-kin] of the intestate.

[After the first paragraph, the order will, where necessary, order, in a creditor's suit, enquiry and accounts for legatees and next-of-kin. In suits by claimants other than creditors, after the first paragraph, in all cases, an order to enquire and take an account of creditors will follow the first paragraph, and such of the orders as may be necessary will follow, omitting the first formal words. The form is continued as in a creditor's suit.]

3. An account of the funeral and testamentary expenses.

4. An account of the movable property of the deceased come to the hands of the defendant, or to the hands of any other person by his order or for his use.

5. An enquiry what part (if any) of the movable property of the deceased is outstanding and undisposed of.

6. And it is further ordered that the defendant do, on or before the.....day of.....next, pay into Court all sums of money which shall be found to have come to his hands, or to the hands of any person by his order or to his use.

7. And that if the Registrar shall find it necessary for carrying out the objects of the suit to sell any part of the movable property of the deceased, the same be sold accordingly, and the proceeds paid into Court.

8. And that Mr. E. F. be Receiver in the suit (or proceeding), and receive and get in all outstanding debts and outstanding movable property of the deceased, and pay the same into the hands of the

Registrar (and give security by bond for the due performance of his duties to the amount of dollars).

9. And it is further ordered that if the movable property of the deceased be found insufficient for carrying out the objects of the suit, then the following further enquiries be made, and accounts taken, that is to say—

(*a*) An enquiry what immovable property the deceased was possessed of or entitled to at the time of his death ;

(*b*) An enquiry what are the incumbrances (if any) affecting the immovable property of the deceased, or any part thereof ;

(*c*) An account, so far as possible, of what is due to the several incumbrancers, with a statement of the priorities of such of the incumbrancers as shall consent to the sale hereinafter directed.

10. And that the immovable property of the deceased, or so much thereof as shall be necessary to make the fund in Court sufficient to carry out the objects of the suit, be sold with the approbation of the Judge, free from incumbrances (if any) of such incumbrancers as shall consent to the sale and subject to the incumbrances of such of them as shall not consent.

11. And it is ordered that G. H. shall have the conduct of the sale of the immovable property, and shall prepare the conditions and contracts of sale subject to the approval of the Registrar, and that in case any doubt or difficulty shall arise the papers shall be submitted to the Judge to settle.

12. And it is further ordered that, for the purpose of the enquiries hereinbefore directed, the Registrar shall advertise in the newspapers according to the practice of the Court, or shall make such enquiries in any other way which shall appear to the Registrar to give the most useful publicity to such enquiries.

13. And it is ordered that the above enquiries and accounts be made and taken, and that all other acts ordered to be done be completed, before the.....day of....., and that the Registrar do certify the result of the enquiries, and the accounts, and that all other acts ordered are completed, and have his certificate in that behalf ready for the inspection of the parties on the.....day of.....

14. And, lastly, it is ordered, that this suit [or matter] stand adjourned for making final decree to the.....day of.....

[Such part only of this order is to be used as is applicable to the particular case.]

No. 128.

FINAL DECREE IN AN ADMINISTRATION SUIT BY A LEGATEE.

(Title.)

1. It is ordered that the defendant.....do on or before the .....day of.....pay into Court the sum of $....., the balance by the said certificate found to be due from the said defendant on account of the estate of....., the testator, and also the sum

of $\$\ldots\ldots$ for interest, at the rate of $\$\ldots\ldots$ per centum per annum, from the $\ldots\ldots$ day of $\ldots\ldots$ to the $\ldots\ldots$ day of $\ldots\ldots$, amounting together to the sum of $\$\ldots\ldots$

2. Let the Registrar [or Taxing Officer] of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said costs, when so taxed, be paid out of the said sum of $\$\ldots\ldots$ ordered to be paid into Court as aforesaid, as follows :

(*a*) The costs of the plaintiff to Mr. $\ldots\ldots$, his attorney [or solicitor], and the costs of the defendant to Mr. $\ldots\ldots$, his attorney [or solicitor].

(*b*) And (if any debts are due) with the residue of the said sum of $\$\ldots\ldots$ after payment of the plaintiff's and defendant's costs as aforesaid, let the sums found to be owing to the several creditors mentioned in the $\ldots\ldots$ schedule to the Registrar's certificate, together with subsequent interest on such of the debts as bear interest, be paid ; and after making such payments, let the amount coming to the several legatees mentioned in the $\ldots\ldots$ schedule, together with subsequent interest (to be verified as aforesaid), be paid to them.

3. And if there should then be any residue, let the same be paid to the residuary legatee.

No. 129.

DECREE IN AN ADMINISTRATION-SUIT BY A LEGATEE, WHERE AN EXECUTOR IS HELD PERSONALLY LIABLE FOR THE PAYMENT OF LEGACIES.

(Title.)

1. Declared that the defendant is personally liable to pay the legacy of $\$\ldots\ldots$ bequeathed to the plaintiff ;

2. And it is ordered that an account be taken of what is due for principal and interest on the said legacy ;

3. And it is also ordered that the defendant do, within $\ldots\ldots$ weeks after the date of the Registrar's certificate, pay to the plaintiff the amount of what the Registrar shall certify to be due for principal and interest ;

4. And it is ordered that the defendant do pay the plaintiff his costs of suit, the same to be taxed in ease the parties differ.

No. 130.

FINAL DECREE IN AN ADMINISTRATION-SUIT BY NEXT-OF-KIN.

(Title.)

1. Let the Registrar of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the plaintiff's costs, when so taxed, be paid by the defendant to the plaintiff out of the sum of $\$\ldots\ldots$, the balance by the said certificate found to be due from the said defendant on account of the personal estate of E. F.,

the intestate, within one week after the taxation of the said costs by the said Registrar, and let the defendant retain for her own use out of such sum her costs, when taxed.

2. And it is ordered that the residue of the said sum of $....., after payment of the plaintiff's and defendant's costs as aforesaid, be paid and applied by the defendant as follows :

(*a*) Let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay one-third share of the said residue to the plaintiffs, A. B. and C., his wife, in her right as the sister and one of the next-of-kin of the said E. F., the intestate ;

(*b*) Let the defendant retain for her own use one other third share of the said residue, as the mother, and one other of the next-of-kin, of the said E. F., the intestate ;

(*c*) And let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay the remaining one-third share of the said residue to G. H., as the brother, and the other next-of-kin, of the said E. F., the intestate.

No. 131.

ORDER—DISSOLUTION OF PARTNERSHIP.

(Title.)

It is declared that the partnership in the plaint mentioned between the plaintiff and defendant ought to stand dissolved as from the.....day of....., and it is ordered that the dissolution thereof as from that day be advertised in the *Gazette*, etc.

And it is ordered that.....be the Receiver of the partnership estate and effects in this suit, and do get in all the outstanding book-debts and claims of the partnership.

And it is ordered that the following accounts be taken :

(1) An account of the credits, property, and effects now belonging to the said partnership ;

(2) An account of the debts and liabilities of the said partnership ;

(3) An account of all dealings and transactions between the plaintiff and defendant, from the foot of the settled account exhibited in this suit and marked (A), and not disturbing any subsequent settled accounts.

And it is ordered that the goodwill of the business heretofore carried on by the plaintiff and defendant as in the plaint mentioned, and the stock-in-trade, be sold on the premises, and that the Registrar may, on the application of any of the parties, fix a reserved bidding for all or any of the lots at such sale, and that either of the parties is to be at liberty to bid at the sale.

And it is ordered that the above accounts be taken, and all the other acts required to be done be completed, before the.....day of....., and that the Registrar do certify the result of the accounts, and that all other acts are completed, and have his certificate in that behalf ready for the inspection of the parties on the.....day of.....

And, lastly, it is ordered that this suit stand adjourned for making a final decree to the.....day of.....

No. 132.

PARTNERSHIP—FINAL DECREE.

(Title.)

It is ordered that the fund now in Court, amounting to the sum of $....., be applied as follows :

(1) In payment of the debts due by the partnership set forth in the Registrar's certificate, amounting in the whole to $.....

(2) In payment of the costs of all parties in this suit, amounting to $.....

[These costs must be ascertained before the decree is drawn up.]

(3) In payment of the sum of $.....to the plaintiff as his share of the partnership assets and of the sum of $....., being the residue of the said sum of $.....now in Court, to the defendant as his share of the partnership assets.

Or, And that the remainder of the said sum of $.....be paid to the said plaintiff [or defendant] in part payment of the sum of $.....certified to be due to him in respect of the partnership accounts.]

And that the defendant [or plaintiff] do on or before the..... day of.....pay to the plaintiff [or defendant] the sum of $....., being the balance of the said sum of $.....due to him, which will then remain due.

No. 133.

CERTIFICATE OF NON-SATISFACTION OF DECREE.

(Title.)

Certified that no [or partial, as the case may be, and if partial, state to what extent] satisfaction of the decree of this Court, in Civil Suit No....., of 19.., a copy of which is hereunto attached, has been obtained by execution within the jurisdiction of this Court.

Given under my hand and the seal of the Court, this.....day of....., 19...

.....

[L.S.] *Judge.*

No. 134.

NOTICE TO SHOW CAUSE WHY EXECUTION SHOULD NOT ISSUE.

(Title.)

To.....

Whereas.....has made application to this Court for execution of decree in Civil Suit No....., 19.., this is to give you notice that you are to appear before this Court.....on the .....day of....., 19.., either in person, or by a solicitor of this Court, or agent duly authorized and instructed, to shew cause, if any, why execution should not be granted.

Given under my hand and the seal of the Court, this.....day of ....., 19..

.....

[L.S.] *Judge.*

No. 135.

WARRANT OF ATTACHMENT OF MOVABLE PROPERTY IN DEFENDANT'S POSSESSION IN EXECUTION OF A DECREE FOR MONEY.

(Title.)

To the Bailiff of the Court.

Whereas.....was ordered, by decree of this Court, passed on the.....day of....., 19.., in Suit No.....of 19.., to pay to the plaintiff the sum of $.....as noted in the margin ; and whereas the said sum of $.....has not been paid :

Decree.	$	c.
Principal..		
Interest		
Costs		
Costs of decree ..		
Interest thereon ..		
Total of attachment ..		
Total ..		

These are to command you to attach the movable property of the said.....as set forth in the list hereunto annexed, or which shall be pointed out to you by the said....., and unless the said.....shall pay to you the said sum of $....., together with $.....the costs of this attachment, to hold the same until further orders from this Court.

You are further commanded to return this warrant on or before the.....day of....., 19.., with an endorsement certifying the date and manner in which it has been executed, or the reason why it has not been executed.

Given under my hand and the seal of the Court, this.....day of.....day of....., 19..

Schedule.

.....

[L.S.] *Judge.*

No. 136.

WARRANT TO THE BAILIFF TO GIVE POSSESSION OF LAND, ETC.

(Title.)

To the Bailiff of the Court.

Whereas....., in the occupancy of....., has been decreed to ....., the plaintiff in this suit : you are hereby directed to put the said.....into possession of the same, and you are hereby authorized to remove any person bound by the decree who may refuse to vacate the same.

Given under my hand and the seal of the Court, this.....day of....., 19..

.....

[L.S.] *Judge.*

No. 137.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVABLE PROPERTY TO WHICH THE DEFENDANT IS ENTITLED SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSON TO THE IMMEDIATE POSSESSION THEREOF.

(Title.)

To.....

Whereas.....has failed to satisfy a decree passed against ....., on the.....day of....., 19.., ...in favour of..... for $..... : it is ordered that the defendant be, and is hereby, prohibited and restrained, until the further order of this Court, from receiving from.....the following property in the possession of the said....., that is to say, ...to which the defendant is entitled, subject to any claim of the said. ....., and the said..... is hereby prohibited and restrained, until the further order of this Court, from delivering the said property to any person or persons whomsoever.

Given under my hand and the seal of the Court, this.....day of....., 19..

.....

[L.S.] *Judge.*

No. 138.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF DEBTS NOT SECURED BY NEGOTIABLE INSTRUMENTS.

(Title.)

To.....

Whereas.....has failed to satisfy a decree passed against..... on the.....day of....., 19.., in Civil Suit No.....of 19.., in favour of.....for $..... : it is ordered that the defendant be, and is hereby, prohibited and restrained, until the further order of this Court, from receiving from you a certain debt alleged now to

be due from you to the said defendant, namely,..... ; and that you the said....., be, and you are hereby, prohibited and restrained, until the further order of this Court, from making payment of the said debt, or any part thereof, to any person whomsoever.

Given under my hand and the seal of the Court, this.....day of....., 19..

.....

[L.S.] *Judge.*

No. 139.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A CORPORATION.

To.....Defendant, and to....., ...Manager of.....

Whereas.....has failed to satisfy a decree passed against..... on the.....day of....., 19.., in Civil Suit No.....of 19.., in favour of.....for $..... : it is ordered that you, the defendant, be, and you are hereby, prohibited and restrained, until the further order of this Court, from making any transfer of.....shares in the aforesaid corporation, namely,....., or from receiving payment of any dividends thereon ; and you....., the Manager of the said corporation, are hereby prohibited and restrained from permitting any such transfer or making any such payment.

Given under my hand and the seal of the Court, this.....day of....., 19..

.....

[L.S.] *Judge.*

No. 140.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVABLE PROPERTY.

(Title.)

To....., Defendant.

Whereas you have failed to satisfy a decree passed against you on the.....day of....., 19.., in Civil Suit No.....of 19.., in favour of....., for $..... : it is ordered that you, the said....., be, and you are hereby, prohibited and restrained until the further order of this Court from transferring or charging in any way the property specified in the schedule hereunto annexed, and that all persons be, and they are hereby, prohibited from taking any benefit from any transfer or charge of the said property.

Given under my hand and the seal of the Court, this.....day of....., 19..

Schedule.

.....

[L.S.] *Judge.*

No. 141.

ATTACHMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY OR OF ANY SECURITY IN THE HANDS OF A COURT OR A PUBLIC OFFICER.

(Title.)

To.....

Sir,—The plaintiff having applied, under section.....of the Code of Civil Procedure, for an attachment of certain money now in your hands [here state how the money is supposed to be in the hands of the person addressed, on what account, etc.], I request that you will hold the said money subject to the further order of this Court.

I have the honour to be,
Sir,
Your most obedient servant,

.....

[L.S.] *Judge.*

Dated the.....day of....., 19..

No. 142.

ORDER FOR PAYMENT TO THE PLAINTIFF, ETC., OF MONEY, ETC., IN THE HANDS OF A THIRD PARTY.

(Title.)

To the Bailiff of the Court and to.....

Whereas the following property.....has been attached in execution of a decree in Civil Suit No.....of.....19.., passed on the.....day of....., 19.., in favour of....., for $.....: it is ordered that the property so attached, consisting of $.....in money, and $.....in currency notes, or a sufficient part thereof to satisfy the said decree, shall be paid over by you the said....., to ....., and that the said property, so far as may be necessary for the satisfaction of the said decree, shall be sold by you, the Bailiff of the Court, by public auction in the manner prescribed for sale in execution of decrees, and that the money which may be realized by such sale, or a sufficient part thereof to satisfy the said decree, shall be paid over to the said....., and the remainder, if any, shall be paid to you, the said.....

Given under my hand and the seal of the Court, this.....day of....., 19...

.....

[L.S.] *Judge.*

No. 143.

NOTICE TO ATTACHING CREDITOR.

(Title.)

To.....

Whereas.....has made application to this Court for the removal of attachment on....., placed at your instance in execution of the

decree in Civil Suit No.....of 19.., this is to give you notice to appear before this Court on....., the.....day of....., 19.., either in person or by a solicitor of the Court duly instructed, to support your claim as attaching creditor.....

Given under my hand and the seal of the Court, this.....day of....., 19..

.....

[L.S.] *Judge.*

No. 144.

WARRANT OF SALE OF PROPERTY IN EXECUTION OF A DECREE FOR MONEY.

(Title.)

To the Bailiff of the Court.

These are to command you to sell by auction, after giving..... days' previous notice, by affixing the same in this Court-house, and after making due proclamation,[1] the.....property attached under a warrant from this Court dated the.....day of....., 19.., in execution of a decree in favour of....., in.....Suit No.....of 19.., or so much of the said property as shall realize the sum of dollars....., being the.....of the said decree and costs still remaining unsatisfied.

You are further commanded to return this warrant on or before the.....day of....., 19.., with an endorsement certifying the manner in which it has been executed, or the reason why it has not been executed.

Given under my hand and the seal of the Court, this.....day of..... 19...

.....

[L.S.] *Judge.*

No. 145.

NOTICE TO PERSON IN POSSESSION OF MOVABLE PROPERTY SOLD IN EXECUTION.

(Title.)

To.....

Whereas.....has been the purchaser at a sale by auction in execution of the decree in the above suit of.....now in your possession, you are hereby prohibited from the delivering possession of the said.....to any person except the said.....

Given under my hand and the seal of the Court, this .....day of....., 19...

.....

[L.S.] *Judge.*

[1] This proclamation shall specify the time, the place of sale, the property to be sold, the revenue assessed, should the property consist of land paying revenue to Government, and the amount for the recovery of which the sale is ordered, and as fairly and accurately as possible the other particulars required by law to be specified.

No. 146.

PROHIBITORY ORDER AGAINST PAYMENT OF DEBTS SOLD IN EXECUTION TO ANY OTHER THAN THE PURCHASER.

(Title.)

To.....and to.....

Whereas.....has become the purchaser at a public sale in execution of the decree in the above suit of.....certain.....debt .....due from you.....to you....., that is to say....., it is ordered that you..... be, and you are hereby, prohibited from receiving, and you.....from making payment of, the said debt to any person or persons except the said.....

Given under my hand and the seal of the Court, this.....day of..... 19...

.....

[L.S.] *Judge.*

No. 147.

PROHIBITORY ORDER AGAINST THE TRANSFER OF SHARES SOLD IN EXECUTION.

(Title.)

To.....and.....Manager of.....

Whereas.....has become the purchaser at a public sale in execution of the decree, in the above suit, of certain shares in the above corporation, that is to say, of.....standing in the name of you....., it is ordered that you.....be, and you are hereby, prohibited from making any transfer of the said shares to any person except the said....., the purchaser aforesaid, or from receiving any dividends thereon ; and you....., Manager of the said corporation, from permitting any such transfer or making any such payment to any person except the said....., the purchaser aforesaid.

Given under my hand and the seal of the Court, this.....day of .....19...

.....

[L.S.] *Judge.*

No. 148.

ORDER CONFIRMING SALE OF LAND, ETC.

(Title.)

Whereas the.....following land [or immovable property] was on the.....day of....., 19.., sold by the Bailiff of this Court in execution of the decree in this suit ; and whereas.....days have elapsed and no application has been made [or objection allowed] in respect of the said sale, it is ordered that the said sale be, and the said sale is hereby, confirmed.

Given under my hand and the seal of the Court, this.....day of ....., 19...

.....

[L.S.] *Judge.*

Schedule.

No. 149.

CERTIFICATE OF SALE OF LAND.

(Title.)

This is to certify that.....has been declared the purchaser at a sale by public auction on the.....day of....., 19.., of.....in execution of the decree in this suit, and that the said sale has been duly confirmed by the Court.

Given under my hand and the seal of the Court, this.....day of ....., 19...

.....

[L.S.] *Judge.*

No. 150.

ORDER FOR DELIVERY TO CERTIFIED PURCHASER OF LAND AT A SALE IN EXECUTION.

(Title.)

To the Bailiff of the Court.

Whereas.....has become the certified purchaser of.....at a sale in execution of the decree in Civil Suit No.....of 19.. ; and whereas such land is in the possession of....., you are hereby ordered to put the said....., the certified purchaser, as aforesaid, into possession of the said....., and if need be, to remove any person who may refuse to vacate the same.

Given under my hand and the seal of the Court, this.....day of ....., 19...

.....

[L.S.] *Judge.*

No. 151.

ORDER FOR COMMITTAL FOR RESISTING, ETC., EXECUTION OF DECREE FOR LAND.

(Title.)

To.....

Whereas it appears to the Court that.....has without just cause resisted [or obstructed] the execution of the decree of the Court passed against....., on the.....day of....., 19.., in Civil Suit No.....of 19.., whereby certain land or immovable property was adjudged to....., it is ordered that the said.....be detained in the civil prison for a period of.....days.

Given under my hand and the seal of the Court, this.....day of ....., 19...

.....

[L.S.] *Judge.*

No. 152.

JUDGMENT-DEBTOR SUMMONS.

(Title.)

To....., the above-named Defendant.

You are hereby summoned to appear personally before this Court on the.....day of....., 19.., at the hour of.....in the forenoon then and there to be examined respecting your ability to satisfy the judgment recovered against you in the above suit on the.....day of .....for $.....and costs, and you are not to depart thence until you have been examined and the Court has risen, unless you have obtained the leave of the Court.

Given under my hand and the seal of the Court, this.....day of .....19...

.....

[L.S.] *Judge.*

No. 153.

NOTICE OF PAYMENT INTO COURT.

(Title.)

Take notice that the defendant has paid into Court $....., and says that that sum is enough to satisfy the plaintiff's claim [or the plaintiff's claim for, etc.].

To Mr. X. Z.,
the Plaintiff's Solicitor.

Z.,
Defendant's Solicitor.

No. 154.

COMMISSION TO EXAMINE ABSENT WITNESSES.

(Title.)

To.....

Whereas the evidence of.....is required by the.....in the above suit; and whereas.....; you are requested to take the examination on interrogatories [or *vivâ voce*] of such witnesses....., and you are hereby appointed a Commissioner for that purpose, and you are further requested to make return of such examination so soon as it may be taken [process to require the attendance of the witnesses will be issued by this Court on your application[1]].

Given under my hand and the seal of the Court, this.....day of ....., 19...

.....

[L.S.] *Judge.*

[1] Not necessary where the commission goes to another Court.

No. 155.

ORDER FOR ISSUE OF REQUEST TO EXAMINE WITNESSES.

(Title.)

It is ordered that a letter of request do issue directed to the proper Tribunal for the examination of the following witnesses—that is to say :

E. F. of.....

G. H. of.....

and I. J. of.....

And it is ordered that the depositions taken pursuant thereto when received be filed with the Registrar, and be given in evidence on the trial of this suit, saving all just exceptions.

And it is further ordered that the trial of this suit be stayed until the said depositions have been filed.

Given under my hand and the seal of this Court, this.....day of ....., 19...

.....

[L.S.] *Judge.*

No. 156.

REQUEST TO EXAMINE WITNESSES.

[*Heading :—To the President and Judges of, etc., etc., or as the case may be.*]

Whereas a suit is now pending in the Supreme Court of the Federated Malay States in which A. B. is plaintiff and C. D. is defendant. And in the said suit the plaintiff claims

(*Concise statement of the Claim.*)

And whereas it has been represented to the said Court that it is necessary, for the purposes of justice and for the due determination of the matters in dispute between the parties, that the following persons should be examined as witnesses upon oath touching such matters—that is to say :

E. F. of.....

G. H. of.....

and I. J. of.....

And it appearing that such witnesses are resident within the jurisdiction of your honourable Court.

Now I, ..., as the Chief Judicial Commissioner of the said Court, have the honour to request, and do hereby request, that, for the reasons aforesaid and for the assistance of the said Supreme Court, you as the President and Judges of the said....., or some one or more of you, will be pleased to summon the said witnesses (and such other witnesses as the agents of the said plaintiff and defendant shall humbly request you in writing so to summon) to attend at such time and place as you shall appoint before some one or more of you, or such other person as according to the procedure of your Court is competent to take the examination of witnesses, and

that you will cause such witnesses to be examined upon the interrogatories which accompany this letter of request [or *vivâ voce*] touching the said matters in question in the presence of the agents of the plaintiff and defendant, or such of them as shall, on due notice given, attend such examination.

And I further have the honour to request that you will be pleased to cause the answers of the said witnesses to be reduced into writing, and all books, letters, papers, and documents produced upon such examination to be duly marked for identification, and that you will be further pleased to authenticate such examination by the seal of your Tribunal, or in such other way as is in accordance with your procedure, and to return the same, together with such request in writing, if any, for the examination of other witnesses, through His Britannic Majesty's Secretary of State for.....[or through the Chief Secretary to Government, Federated Malay States], for transmission to the said Supreme Court of the Federated Malay States.

Given under my hand and the seal of the Court, this.....day of ....., 19...

.....

Chief Judicial Commissioner,
Federated Malay States.

[L.S.]

No. 157.

COMMISSION FOR A LOCAL INVESTIGATION, OR TO EXAMINE ACCOUNTS.

(Title.)

To.....

Whereas it is deemed requisite, for the purpose of this suit, that a commission for.....should be issued ; you are hereby appointed Commissioner for the purpose of.....[process to compel the attendance before you of any witnesses, or for the production of any documents which you may desire to examine or inspect, will be issued by this Court on your application[1]].

A sum of $....., being your fee in the above, is herewith forwarded.

Given under my hand and the seal of the Court, this.....day of ....., 19...

.....

[L.S.] *Judge.*

No. 158.

CERTIFICATE OF SERVICE OF FOREIGN PROCESS.

I, ..., Registrar (*or Assistant Registrar*) of the Supreme Court of the Federated Malay States, hereby certify that the documents annexed hereto are as follows :

(1) The original letter of request for service of process received from the Court or Tribunal at.....in the.....of..... in the matter of.....*versus*..... ; and

[1] Not necessary where the commission goes to another Court.

(2) The process received with such letter of request; and

(3) The evidence of service upon....., the person named in such letter of request, together with an affidavit, taken before me, relating thereto.

And I certify that such service so proved, and the proof thereof, are such as are required by the law and practice of the Supreme Court of the Federated Malay States regulating the service in the said States of legal process issued by the Courts thereof, and the proof of such service.

And I certify that the cost of effecting such service amounts to the sum of $.....

Dated this.....day of....., 19...

.....

[L.S.] *Registrar.*

No. 159.

ORDER TO EXAMINE WITNESSES FOR PURPOSES OF A FOREIGN PROCEEDING.

(Title.)

Upon reading the Letter of Request and the affidavit (*if any*) of....., filed the.....day of....., 19.., whereby it appears that proceedings are pending in the [*description of Foreign Tribunal*], in [*name of foreign country*], and that such Court is desirous of obtaining the testimony of [*names of witnesses*].

It is ordered that the said witness.....do attend before the Registrar [*or Assistant Registrar*] of this Court at [*place appointed for examination*], on the.....day of....., 19.., at.....o'clock, or such other day and time as the said Registrar [*or Assistant Registrar*] may appoint, and do there submit to be examined upon oath, or affirmation, touching the testimony so required as aforesaid, and do then and there produce [*description of documents (if any) required to be produced*].

And it is further ordered that the said Registrar [*or Assistant Registrar*] do take down in writing the evidence of the said witness, or witnesses, given on examination, cross-examination, and re-examination, according to the provisions of Chapter XV of "The Civil Procedure Code, 1918" [*or as may be otherwise directed*]; and do cause each and every such witness to sign his or her depositions in his, the said Registrar's [*or Assistant Registrar's*] presence; and do sign the depositions taken in pursuance of this order [and the Letter of Request], and when so completed do transmit the same, together with this order, to the Chief Secretary to Government for transmission to the President of the said Tribunal desiring the evidence of such witness or witnesses.

Dated this.....day of....., 19...

Given under my hand and the seal of the Court, this.....day of ....., 19...

.....

[L.S.] *Judge.*

No. 160.

CERTIFICATE OF EXAMINATION OF WITNESS FOR PURPOSES OF A FOREIGN PROCEEDING.

(Title.)

I, ..., Registrar [*or Assistant Registrar*] of the Supreme Court of the Federated Malay States, hereby certify that the documents annexed hereto are

(1) the original order of the said Court, dated the.....day of....., 19.., made in the matter of.....pending in the.....at.....in the.....of....., directing the examination of certain witnesses to be taken before me; and

(2) the examination and depositions taken by me pursuant to the said order, and duly signed and completed by me on the.....day of....., 19...

Dated this.....day of....., 19...

.....

[L.S.] *Registrar.*

No. 161.

SUMMONS IN SUMMARY SUIT FOR DEBT OR LIQUIDATED DEMAND.

(Title.)

To.....

[Here enter the defendant's name, description, and address.]

Whereas [here enter the plaintiff's name, description, and address] has instituted a suit in this Court against you under Chapter XXXIX of the Code of Civil Procedure for dollars....., principal and interest [or dollars....., balance of principal and interest] due to him as the payee [or endorsee] of a bill of exchange [or promissory note], of which a copy is hereto annexed [or as the case may be], you are hereby summoned to obtain leave from the Court within ten days from the service hereof, inclusive of the day of such service, to appear and defend the suit, and within such time to file a written statement of defence. In default whereof the plaintiff will be entitled at any time after the expiration of such ten days to obtain a decree for any sum not exceeding the sum of dollars..... [here state the sum claimed] and the sum of dollars.....for costs.

Leave to appear may be obtained on an application to the Court supported by affidavit or declaration shewing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to appear in the suit.

Given under my hand and the seal of the Court, this....day of ....., 19...

.....

[L.S.] *Judge.*

No. 162.

ORIGINATING SUMMONS.

(Title.)

Let E. F., the executor of the deceased above-named A. B., attend at Chambers at the Court-house at.....on.....the.....day of ....., 19.., at.....o'clock in the forenoon upon the application of C. D., of....., who claims (to be a creditor [*or as the case may be*] upon the estate of the said A. B.) for an order (for the administration of the movable and immovable property of the said A. B.) [*or as the case may be*].

Dated this.....day of....., 19...

.....

Registrar.

The following note to be added to the original summons and when the time is altered by endorsement the endorsement to be referred to as below :

N.B.—If you do not attend either in person or by your solicitor at the time and place above-mentioned [*or* at the place above-mentioned at the time mentioned in the endorsement hereon], such order will be made and proceedings taken as the Judge may think just and expedient.

No. 163.

WARRANT OF ARREST BEFORE JUDGMENT.

(Title.)

To the Bailiff of the Court.

Whereas....., the plaintiff in the above suit, has proved to the satisfaction of the Court that there is reasonable cause for believing that the defendant.....is about to....., these are to command you to take.....the said.....into custody, and to bring..... before the Court, in order that he may shew cause why he should not furnish security to the amount of $.....for.....personal appearance before the Court, until such time as the said suit shall be fully and finally disposed of, and until execution or satisfaction of any decree that may be passed against.....in the suit.

Given under my hand and the seal of the Court, this.....day of ....., 19...

.....

[L.S.] *Judge.*

ORDER FOR COMMITTAL.

(Title.)

To.....

Whereas....., the plaintiff in this suit, has made application to the Court that security be taken for the appearance of the..... defendant.....to answer any judgment that may be passed against.....in the suit; and whereas the Court has called upon

the defendant.....to furnish such security, or to offer a sufficient deposit in lieu of security, which.....has failed to do ; it is ordered that the said defendant.....be detained in the civil prison until the decision of the suit, or, if judgment be given against....., until the execution of the decree.

Given under my hand and the seal of the Court, this.....day of ....., 19...

.....

[L.S.] *Judge.*

No. 165.

ATTACHMENT BEFORE JUDGMENT, WITH ORDER TO CALL FOR SECURITY FOR FULFILMENT OF DECREE.

(Title.)

To the Bailiff of the Court.

Whereas.....has proved to the satisfaction of the Court that the defendant in the above suit....., these are to command you to call upon the said defendant.....on or before the.....day of ....., either to furnish security for the sum of dollars.....to produce and place at the disposal of this Court when required..... or the value thereof, or such portion of the value as may be sufficient to fulfil any decree that may be passed against....., or to appear and shew cause why.....should not furnish security ; and you are further ordered to attach the said.....and keep the same under safe and secure custody until the further order of the Court, and in what manner you shall have executed this warrant make appear to the Court immediately after the execution thereof, and have you here then this warrant.

Given under my hand and the seal of the Court, this.....day of ....., 19...

.....

[L.S.] *Judge.*

No. 166.

ATTACHMENT BEFORE JUDGMENT, ON PROOF OF FAILURE TO FURNISH SECURITY.

(Title.)

To the Bailiff of the Court.

Whereas....., the plaintiff in this suit, has applied to the Court to call upon....., the defendant, to furnish security to fulfil any decree that may be passed against.....in the suit ; and whereas the Court has called upon the said.....to furnish such security, which.....has failed to do..... ; these are to command you to attach....., the property of the said....., and keep the same under safe and secure custody until the further order of the Court, and in what manner you shall have executed this warrant make appear to the Court immediately after the execution hereof, and have you here then this warrant.

Given under my hand and the seal of the Court, this.....day of....., 19...

.....

[L.S.] *Judge.*

No. 167.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVABLE PROPERTY TO WHICH THE DEFENDANT IS ENTITLED, SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSONS TO THE IMMEDIATE POSSESSION THEREOF.

(Title.)

To....., Defendant.

It is ordered that you, the said....., be, and you are hereby, prohibited and restrained until the further order of this Court from receiving from.....the following property in the possession of the said....., that is to say, ..., to which the defendant is entitled, subject to any claim of the said....., and the said..... is hereby prohibited and restrained, until the further order of this Court, from delivering the said property to any person whomsoever.

Given under my hand and the seal of the Court, this.....day of....., 19...

.....

[L.S.] *Judge.*

No. 168.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVABLE PROPERTY.

(Title.)

To....., Defendant.

It is ordered that you, the said....., be, and you are hereby, prohibited and restrained, until the further order of this Court, from transferring or charging in any way the property specified in the schedule hereunto annexed, and that all persons be, and they are hereby, prohibited from taking any benefit from any transfer or charge of the said property.

Given under my hand and the seal of the Court, this.....day of....., 19...

Schedule.

.....

[L.S.] *Judge.*

No. 169.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY IN THE HANDS OF OTHER PERSONS, OR OF DEBTS NOT BEING NEGOTIABLE INSTRUMENTS.

(Title.)

To.....

It is ordered that the defendant.....be, and he is hereby, prohibited and restrained, until the further order of this Court, from receiving from.....the [money now in.....hands belonging to the said defendant, or debts, as the case may be, describing them] and that the said.....be, and.....hereby prohibited and

restrained, until the further order of this Court, from making payment of the said [money, etc.], or any part thereof, to any person whomsoever.

Given under my hand and the seal of the Court, this.....day of....., 19..

.....

[L.S.] *Judge.*

No. 170.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A CORPORATION.

(Title.)

To....., Defendant, and to

....., Manager of.....

It is ordered that....., the defendant, be, and.....hereby prohibited and restrained, until the further order of the Court, from making any transfer of.....shares, being.....in the aforesaid corporation, or from receiving payment of any dividends thereon, and you....., the Manager of the said corporation, are hereby prohibited and restrained from permitting any such transfer or making any such payment.

Given under my hand and the seal of the Court, this.....day of....., 19..

.....

[L.S.] *Judge.*

No. 171.

TEMPORARY INJUNCTIONS.

(Title.)

Upon motion made unto this Court by....., solicitor for the plaintiff A. B., and upon reading the petition of the said plaintiff in this matter filed [this day] [or the plaint filed in this cause on the .....day of..... ; or, the written statement of the said plaintiff filed on the.....day of.....] and upon hearing the evidence of .....and.....in support thereof [if after notice and defendant not appearing, add, and also the evidence of.....as to service of notice of this motion upon the defendant, C. D.] : This Court doth order that an injunction be awarded to restrain the defendant, C. D., his servants, workmen, and agents from pulling down, or suffering to be pulled down, the house in the plaint in the said suit of the plaintiff mentioned [or in the written statement, or petition, of the plaintiff and evidence at the hearing of this motion mentioned] being No....., ...street, in....., and from selling the materials whereof the said house is composed, until the hearing of this cause or until the further order of this Court.

Dated this.....day of....., 19...

.....

Judge.

[L.S.]

[Where the injunction is sought to restrain the negotiation of a note or bill, the ordering part of the order may run thus :]

.....to restrain the defendants.....and.....from parting with out of the custody of them or any of them or endorsing, assigning, or negotiating the promissory note [or bill of exchange] in question, dated on or about the....., etc., mentioned in the plaintiff's plaint [or petition] and the evidence heard at this motion, until the hearing of this cause or until the further order of this Court.

[In copyright cases—]

.....to restrain the defendant, C. D., his servants, agents, and workmen, from printing, publishing, or vending a book, called....., or any part thereof, until the....., etc.

[Where part only of a book is to be restrained—]

.....to restrain the defendant, C. D., his servants, agents, and workmen, from printing, publishing, selling, or otherwise disposing of such parts of the book in the plaint [or petition and evidence, etc.] mentioned to have been published by the defendant as hereinafter specified—namely, that part of the said book which is entitled..... and.....also that part which is entitled.....[or which is contained in page.....to page.....both inclusive] until the....., etc.

[In cases relating to exclusive privileges for inventions—]

.....to restrain the defendant, C. D., his agents, servants, and workmen, from making or vending any perforated bricks [or, as the case may be] upon the principle of the inventions in the plaintiff's plaint [or petition, etc., or written statement, etc.] mentioned, belonging to the plaintiffs, or either of them, during the remainder of the respective terms of the grants of exclusive privileges in the plaintiff's plaint [or, as the case may be] mentioned, and from counterfeiting or imitating the same inventions, or either of them, or making any addition thereto, or subtraction therefrom, until the hearing, etc.

[In cases of trade-marks—]

.....to restrain the defendant, C. D., his servants, agents, and workmen, from selling, or exposing for sale, or procuring to be sold, any composition or blacking [or, as the case may be] described as or purporting to be blacking manufactured by the plaintiff, A. B., in bottles having affixed thereto such labels as in the plaintiff's plaint [or petition, etc.,] mentioned, or any other labels so contrived or expressed as by colourable imitation or otherwise to represent the composition or blacking sold by the defendant to be the same as the composition or blacking manufactured and sold by the plaintiff, A. B., and from using trade-cards so contrived or expressed as to represent that any composition or blacking sold or proposed to be sold by the defendant is the same as the composition or blacking manufactured or sold by the plaintiff A. B., until the....., etc.

[To restrain a partner from in any way interfering in the business—]

.....to restrain the defendant, C. D., his agents and servants, from entering into any contract and from accepting, drawing, endorsing, or negotiating any bill of exchange, note, or written security in the name of the partnership firm of B. and D., and from contracting any debt, from buying and selling any goods, from making or entering into any verbal or written promise, agreement, or undertaking, and from doing, or causing to be done, any act, in the name or on the credit of the said partnership firm of B. and D., or whereby the said partnership firm can or may in any manner become or be made liable to or for the payment of any sum of money or for the performance of any contract, promise, or undertaking until the....., etc.

No. 172.

NOTICE OF APPLICATION FOR INJUNCTION.

(Title.)

Take notice that I, A. B., intend to apply at the sitting of the Court at.....aforesaid, on the.....day of....., for an injunction to restrain C. D. from further prosecuting a suit which he has commenced against me in.....to recover damages for breach of the contract for the specific performance of which this suit was commenced [or to restrain him from receiving and giving discharges for any of the debts due to the partnership in the matter of the partnership between us for the winding up of which this suit was commenced; or from digging the turf from the land which was agreed to be sold by him to me by the agreement, the specific performance of which this suit is commenced to enforce; or, as the case may be].

Dated this.....day of....., 19..

To C. D. A. B.

[*N.B.*—Where the injunction is to be applied for against a party whose name and address do not appear upon any proceeding already filed in the suit, such name and address must be stated in full to enable the proper officer to serve the notice.]

No. 173.

APPOINTMENT OF A RECEIVER.

(Title.)

To.....

Whereas.....has been attached in execution of a decree passed in the above suit on the.....day of....., 19.., in favour of ..... : you are hereby (subject to your giving security to the satisfaction of the Registrar) appointed Receiver of the said property under Section 505 of the Code of Civil Procedure, with full powers under the provisions of that section.

You are required to render a due and proper account of your receipts and disbursements in respect of the said property on..... You will be entitled to remuneration at the rate of.....per cent. upon your receipts under the authority of this appointment.

Given under my hand and the seal of the Court, this.....day of....., 19...

.....

[L.S.] *Judge.*

No. 174.

BOND TO BE GIVEN BY RECEIVER.

(Title.)

Know all men by these presents, that we, I. J., of, etc., and K. L., of, etc., and M. N., of, etc., are jointly and severally bound to G. H., Registrar of the Court of....., in $....., to be paid to the said G. H., or his attorney, executors, administrators, or assigns. For which payment to be made we bind ourselves, and each of us, in the whole, our and each of our heirs, executors, and administrators, jointly and severally, by these presents.

Dated this.....day of....., 19..

Whereas a plaint has been filed in this Court by A. B. against C. D. for the purpose of [here insert the object of suit].

And whereas the said I. J. has been appointed, by order of the above-mentioned Court, to receive the rents and profits of the immovable property and to get in the outstanding movable property of O. P., the testator in the said plaint named:

Now the condition of this obligation is such, that if the above-bounden I. J. shall duly account for all and every the sum and sums of money which he shall so receive on account of the rents and profits of the immovable property and in respect of the movable property of the said O. P. [or as the case may be] at such periods as the said Court shall appoint, and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court hath directed or shall hereafter direct, then this obligation shall be void, otherwise it shall remain in full force.

I. J.

K. L.

M. N.

Signed and delivered by the above-bounden in the presence of .....

[NOTE.—If deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond.]

No. 175.

AFFIDAVIT FOR DISTRESS.

In the.....Court of.....

Distress No.....of 19...

A. B. of.....Plaintiff,

against

C. D. of.....Defendant.

I, A. B., residing at.....in the State of.....make oath and say that C. D., who resides at.....in the State of....., is justly indebted to.....in the sum of dollars.....for arrears of rent of

the house and premises No.....situated at.....in the State of.....due for.....months from.....to.....at the rate of dollars.....per mensem.

Sworn before me, the.....day of....., 19...

....

[L.S.] *Magistrate or Registrar.*

No. 176.

POWER OF ATTORNEY TO DISTRAIN.

I [*or* we], A. B., do hereby authorize X. Y. to be my (our) agent to act for me (us) in distraining, under Chapter XLIV of "The Civil Procedure Code, 1918," for (all) (the) arrears of rent now due to me (us) [*or* to be hereafter due] on property situated in (*here describe property*), as to which I am (we are) entitled to distrain as [*Owner, Lessee, Trustee, Guardian, etc.*], alone [*or* together with E. F.], etc.

Dated at.....the.....day of....., 19...

(Signed) A. B.

Witness.....

No. 177.

WARRANT OF DISTRESS.

(Title as in Form No. 175.)

To the Bailiff of the Court.

I do hereby direct you to distrain the movable property found in or upon the premises No....., ...street, ..., and in the apparent possession of the defendant C. D., for the sum of dollars....., being the amount of.....months' rent due to A. B. for the same on the.....day of.....last, according to the provisions of Chapter XLV of "The Civil Procedure Code, 1918."

Given under my hand and the seal of the Court, this.....day of....., 19...

.....

[L.S.] *Judge.*

No. 178.

INVENTORY AND NOTICE.

(Title as in Form No. 175.)

To C. D.

[*State particulars of goods seized.*]

Take notice that I have this day seized the movable property found in or upon the premises No....., ...street, ..., and in the apparent possession of the defendant C. D., contained in the above inventory, for the sum of dollars....., being the amount of.....months' rent due to A. B. on.....last and that I value the said movable property approximately at the sum of dollars .....and that unless you pay the amount of the said rent, together with the costs of this distress, within five days from the date hereof, or obtain an order from the Court to the contrary, the same

will be sold on the.....day of....., 19.., at.....pursuant to the provisions of Chapter XLV of "The Civil Procedure Code, 1918."

(Signed) E. F.,
Bailiff.

No. 179.

AFFIDAVIT ON APPLICATION TO FOLLOW GOODS.

(Title as in Form No. 175.)

I, A. B., of....., make oath and say as follows:

1. I am landlord of house No....., ...street, ...

2. On the.....day of....., 19.., I obtained a warrant of distress against the movable property found in or upon the premises No....., ...street, ..., and in the apparent possession of the defendant C. D. for arrears of.....months' rent due to me from.....19.. to.....19.., at the rate of $.....per mensem, amounting to $.....

3. On the.....day of....., 19.., I saw.....remove all the household furniture from the said house No....., ...street, ..., to house No....., ...street.

On the above grounds I pray for authority to follow the property removed as aforesaid to house No....., ...street.

Sworn before me, the.....day of....., 19...

.....

[L.S.] *Magistrate or Registrar.*

No. 180.

AUTHORITY TO FOLLOW GOODS.

(Title as in Form No. 175.)

Upon reading the affidavit of.....sworn to and filed herein this day and the return of the Bailiff to the warrant of distress issued herein this day, it is ordered that the Bailiff of this Court do follow, take, and seize all the goods liable to seizure under the said warrant of distress which were alleged in and by the said affidavit to have been removed by the said defendant from house No....., ... street, to house No....., ...street.

Given under my hand and the seal of the Court, this.....day of....., 19...

.....

[L.S.] *Judge.*

No. 181.

AFFIDAVIT ON APPLICATION FOR AUTHORITY TO MAKE FORCIBLE ENTRY IN EXECUTION OF WARRANT OF DISTRESS.

(Title as in Form No. 175.)

I, A. B., of....., make oath and say as follows:

1. On the.....day of....., 19.., I went to house No....., ...street, ..., for the purpose of executing a warrant of distress issued against the movable property found in or about the said house and in the apparent possession of the said C. D.

2. In my opinion such house is held on a rent of a full three-fourths of its yearly value and neither its value by the year nor the rent payable in respect of its tenancy by the year exceeds $300.

3. I found the premises deserted and unoccupied and the door closed with a padlock from the outside. I made enquiries from the neighbours and was informed that the tenant had been absent for more than.....

As there are no means of executing the said warrant without breaking open the doors or windows of the said house, I apply for the order of this Court to break open the said doors or windows.

Sworn before me, the.....day of....., 19...

.....

[L.S.] *Magistrate or Registrar.*

No. 182.

AUTHORITY TO MAKE FORCIBLE ENTRY IN EXECUTION OF WARRANT OF DISTRESS.

(Title as in Form No. 175.)

To the Bailiff of the Court.

Whereas the above-named A. B. has on an affidavit dated the .....day of....., 19.., taken out a warrant of distress whereby the Bailiff was directed to distrain the movable property found in or upon the premises No....., ...street, ..., and in the apparent possession of the defendant C. D. for the sum of $..... And whereas this Court is satisfied that there are no reasonable means of executing the said warrant without breaking open the outer doors or windows of the said No....., ...street, and that this order is warranted by the provisions of Section 543 of "The Civil Procedure Code, 1918": This is therefore to authorize you to break open or cause to be broken open the doors or windows of the said house No....., ... street, so far as may be necessary to enable you to execute the said warrant, taking all due precautions for the protection of the property in the premises and informing the owner or persons in the premises before acting on this order that you have such order, if such owner or persons is or are to be found.

Given under my hand and the seal of the Court, this.....day of....., 19...

.....

[L. S.] *Judge.*

No. 183.

MEMORANDUM OF APPEAL.

(Name, etc., as in Register.) Plaintiff—Appellant.

(Name, etc., as in Register.) Defendant—Respondent.

[Name of Appellant] [plaintiff or defendant] above-named appeals to the Court of a Judicial Commissioner at.....against the decree of.....in the above suit, dated the.....day of....., for the following reasons—namely [here state the grounds of objection].

No. 184.

REGISTER OF APPEALS.

In the Court of a Judicial Commissioner at.....

REGISTER OF APPEALS FROM DECREES IN THE YEAR 19...

Date of memorandum.	No. of appeal.	Appellant.			Respondent.			Decree appealed from.				Appearance.			Judgment.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of original suit.	Particulars.	Amount or value.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what or amount.

No. 185.

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEARING OF THE APPEAL.

In the Court of a Judicial Commissioner at.....

....., Appellant, *v.* ....., Respondent.

Appeal from the.....of the Court of.....dated the.....day of....., 19..

To....., Respondent.

Take notice that an appeal from the decree of.....in this case has been presented by.....and registered in this Court, and that the.....day of....., 19.., has been fixed by this Court for the hearing of this appeal.

If no appearance is made on your behalf by yourself, your solicitor, or by someone by law authorized to act for you in this appeal, it will be heard and decided *ex parte* in your absence.

Given under my hand and the seal of the Court, this.....day of....., 19...

.....

[L.S.] *Judge.*

[NOTE.—If a stay of execution has been ordered, intimation should be given of the fact on this notice.]

No. 186.

DECREE ON APPEAL.

In the Court of a Judicial Commissioner at.....

....., Appellant, *v.* ....., Respondent.

Appeal from the.....of the Court of.....dated the.....day of....., 19...

....., Plaintiff.

....., Defendant.

Plaintiff [or defendant] above-named appeals to the Court of a Judicial Commissioner at.....against the decree of.....in the above suit, dated the.....day of....., 19.., for the following reasons—namely,

[Here state the reasons.]

This appeal coming on for hearing on the.....day of....., 19.., before....., in the presence of.....for the Appellant and of.....for the Respondent, it is ordered—

[Here state the relief granted.]

The costs of this appeal, amounting to $....., are to be paid by..... The costs of the original suit are to be paid by.....

Given under my hand and the seal of the Court, this.....day of....., 19...

.....

[L.S.] *Judge.*

No. 187.

NOTICE TO SHEW CAUSE WHY A REVIEW SHOULD NOT BE GRANTED.

(Title.)

To.....

Take notice that.....has applied to this Court for a review of its judgment passed on the.....day of....., 19.., in the above case. The.....day of....., 19.., is fixed for you to shew cause why the Court should not grant a review of its judgment in this case.

Given under my hand and the seal of the Court, this.....day of ....., 19...

.....

[L.S.] *Judge.*

No. 188.

NOTICE OF CHANGE OF SOLICITOR.

(Title.)

To the Registrar of the Court.

Take notice that I, A. B. [or C. D.], have hitherto employed as my solicitor G. H., of....., in the above-mentioned cause, but that I have ceased to employ him, and that my present solicitor is J. K., of.....

A. B. [or C. D.]

No. 189.

MEMORANDUM TO BE PLACED AT FOOT OF EVERY SUMMONS, NOTICE, DECREE, OR ORDER OF COURT, OR ANY OTHER PROCESS OF THE COURT.

Hours of attendance at the office of the Registrar [place of office] from [ten] till [four], except on [here insert the day on which the office will be closed], when the office will be closed [at one].

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ENACTMENT NO. 18 OF 1918.

An Enactment to repeal and re-enact as a Federal Law the Commissions of Enquiry Enactments, 1907.

ARTHUR YOUNG,
President of the Federal Council.

[29th August, 1918.
4th September, 1918.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as "The Commissions of Enquiry Enactment, 1918," and shall come into force on the publication thereof in the *Gazette*.

(ii) Upon the coming into force of this Enactment the Enactments specified in the first schedule shall be repealed.

(iii) All Commissions issued under any Enactment hereby repealed which are in force at the commencement of this Enactment shall be deemed to have been issued under this Enactment.

Issue of Commissions.

2. (i) Whenever it appears to the High Commissioner that information is necessary concerning any matter relating to the Public Service in any of its branches or affecting the good government of the Federated Malay States or of any of them, the High Commissioner may issue a Commission under his hand appointing one or more persons to be Commissioners to enquire into and report upon such matter.

(ii) When more than one Commissioner is appointed, one of them shall be named as President of the Commission.

(iii) Commissions under this Enactment may be in the form given in the second schedule, with such additions, variations, and omissions as may in any particular case appear necessary.

Power to add or substitute Commissioners.

3. The High Commissioner may from time to time add to the persons named in any such Commission, and in case any person appointed or added under this Enactment shall die or resign or desire to be discharged or refuse or become incapable to act the High Commissioner may appoint a new Commissioner in his place, and all the powers and duties by this Enactment conferred and imposed on a Commissioner shall be exercised and performed by the Commissioner so added or appointed.

Enlargement of time.

4. The High Commissioner may from time to time by endorsement under his hand on a Commission enlarge the time for the execution of the Commission, whether the time for the execution thereof has expired or not.

Attendance of witnesses.

5. (i) The Commissioner or Commissioners may by summons under his hand or under the hand of their President require the attendance before him or them, at a time and place to be mentioned in such summons, of any person residing or being within the Federated Malay States whose evidence is in his or their judgment material to the subject matter of the enquiry and may require him to bring and produce before him or them all such books, papers, and documents as he or they think necessary for the purposes of the enquiry.

(ii) Every person so named shall accordingly attend before the Commissioner or Commissioners and shall produce such books, papers, and documents as are required of him and are in his possession or power according to the tenor of the summons.

Remuneration to witnesses residing in another State.

6. (i) Whenever any person summoned to attend before such Commissioner or Commissioners in any State is residing or found in another State, he shall not be bound to attend before the Commissioner or Commissioners until a reasonable sum has been tendered to him for his expenses and probable loss or injury, if any.

(ii) In case of difference as to the amount so tendered, the difference may be settled by the Supreme Court on summons against the person to shew cause why he should not appear as required ; and in making an order in the matter the Court shall direct what sum should be allowed, having due regard to the circumstances of the person and the probable loss or injury, if any, which he may sustain by leaving his State.

Examination of witnesses.

7. The Commissioner or Commissioners may administer an oath to every person examined before him or them touching the matters to be enquired into under this Enactment ; but it shall not be necessary for him or them to take evidence upon oath unless he or they think fit so to do or unless expressly directed by the Commission so to do ; and all persons examined before him or them, whether on oath or not, shall be legally bound to state the truth.

Powers in respect of witnesses failing or refusing to attend, be sworn, etc.

8. If any person upon whom any summons under this Enactment is served by the delivery thereof to him or by the leaving thereof at his usual place of abode

(*a*) fails without reasonable cause (to be allowed by the Commissioner or Commissioners) to appear before him or them at the time and place mentioned in the summons, or

(*b*) refuses to be sworn or does not answer such questions as are put to him touching the matters directed to be enquired into by the Commissioner or Commissioners, or

(*c*) refuses or fails without reasonable cause (to be allowed by the Commissioner or Commissioners) to produce and shew to the Commissioner or Commissioners any such paper, book, or document being in his possession or power as to the Commissioner or Commissioners appears necessary for arriving at the truth of the matters to be enquired into by them,

the Commissioner or Commissioners shall have the same powers in all respects touching any such person as the Supreme Court may by

law exercise against any person for making default of appearance or for refusing to be sworn or to give evidence or for not producing papers, books, or documents in any suit pending in such Court. Provided that the Commissioner or Commissioners shall not exercise any of the powers in this section granted against persons refusing to be sworn or refusing to answer or refusing or failing to produce papers, books, or documents without first reporting to the High Commissioner the case which renders in his or their opinion the exercise of such power necessary and obtaining the sanction of the High Commissioner.

Indemnity to witnesses.

9. (i) Any person examined as a witness in an enquiry under this Enactment who in the opinion of the Commissioner or Commissioners makes a full and true disclosure touching all the matters in respect of which he is examined shall receive a certificate under the hand of the President stating that the witness has upon his examination made a full and true disclosure as aforesaid.

(ii) If any civil or criminal proceeding is at any time thereafter instituted against such witness in respect of any matter touching which he has been so examined, the tribunal before which such proceeding is instituted shall on the production and proof of the certificate stay the proceeding and may in its discretion award to such witness any costs which he may have incurred by the institution of the proceeding.

(iii) No evidence taken under this Enactment shall be admissible against any person in any civil or criminal proceeding whatever, except in the case of a witness who may be accused of having given false evidence before Commissioners conducting an enquiry under this Enactment.

Commissioners to be public servant, and enquiries to be judicial proceedings under the Penal Code.

10. Every Commissioner appointed under this Enactment shall, so long as he is acting as such Commissioner, be deemed to be a public servant within the meaning of the Penal Code, and every enquiry under this Enactment shall be deemed to be a judicial proceeding within the meaning of the same Code.

Service of process.

11. Every process issued by a Commissioner or Commissioners under this Enactment shall be served in the same manner as if such process had been issued by a Court in the Federated Malay States.

FIRST SCHEDULE.

ENACTMENTS REPEALED.

State.	No. and year.	Short title.
Perak	13 of 1907	The Commissions of Enquiry Enactment, 1907
Selangor	16 of 1907	Do.
Negri Sembilan ..	16 of 1907	Do.
Pahang	13 of 1907	Do.

SECOND SCHEDULE.

FORM OF COMMISSION.

To.....(*Names of Commissioners.*)

WHEREAS it is expedient that a full enquiry should forthwith be made into [*here state subject or subjects of enquiry and whether as relating to the Public Service in any of its branches or as affecting the good government of the Federated Malay States or both*].

Now, therefore, I do by these presents authorize and appoint you to make a full enquiry into [*here state subject or subjects*]: And I do by these presents give to you full power to call before you any such persons, being within the Federated Malay States, as you shall judge necessary for the purpose of making the aforesaid enquiry, and to call for and have access to, and require the production before you of, all official and other books, documents, papers, and records, as you may deem expedient, and to examine witnesses on oath or otherwise: And I direct that within.....months after the date of this Commission you do certify to me, under your hands, your several proceedings and your opinion and recommendations on the premises: This Commission shall continue in full force, although the proceedings thereunder shall not be continued by adjournment from time to time, and you may from time to time if you shall see fit, without waiting for your full and complete report, certify your several proceedings as the same shall be respectively perfected: And I hereby require all Government Officers and other persons whomsoever within the Federated Malay States to be assistant to you, and each of you, in the execution of these presents: And I appoint you.....to be President of the Commission, and I do give power, at your discretion, to procure such clerical or other assistance as may be absolutely necessary for enabling you duly to execute this Commission.

Given under my hand and seal at.....this.....day of..... 191...

.....

High Commissioner.

ENACTMENT NO. 23 OF 1918.

An Enactment to make further provision with regard to Subsidiary Coins which are legal tender.

ARTHUR YOUNG,
President of the Federal Council.

[29th August, 1918.
9th September, 1918.]

Preamble.

WHEREAS by "The Legal Tender Enactment, 1913," it is provided that a tender of payment of money in the Federated Malay States, if made in any coin specified in the third schedule to the said Enactment, shall, subject to the provisions of the said Enactment, be a legal tender :

And whereas the coins specified in the said third schedule are subsidiary coins, the particulars whereof are therein prescribed :

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :

Short title and commencement.

1. This Enactment may be cited as "The Legal Tender (Supplementary) Enactment, 1918," and shall come into force on the publication thereof in the *Gazette*.

Substituted particulars of certain subsidiary coins.

2. The particulars of the coins set forth in the schedule hereto shall, as respects such coins issued after the 27th day of April, 1918, be substituted for the corresponding particulars contained in the third schedule to "The Legal Tender Enactment, 1913."

SCHEDULE.

SUBSIDIARY COINS.

1	2	3	4	5		6		7
Proportion of dollar for which tender.	Coin.	Metal.	Millesimal fineness.	Standard weight.		Least current weight.		Limit of tender.
				Grains.	Grammes.	Grains.	Grammes.	
.20	Straits Settlements twenty cent piece	Silver	400	83·81	5,430	79·6	5.158	2 dollars
.10	,, ten ,,	,,	400	41·90	2,715	39·8	2.579	,,
.05	,, five ,,	,,	400	20·95	1,357	19·9	1,290	,,

ENACTMENT NO. 28 OF 1918.

An Enactment to authorize the receipt from the public of Moneys on Deposit and the issue of War Savings Certificates.

ARTHUR YOUNG,
President of the Federal Council.

[29th August, 1918.
28th March, 1919.]

WHEREAS it is desirable that a further opportunity be afforded for the local investment of moneys with the Government, in order that such moneys may be available for the purposes of the war in which the British Empire is now engaged :

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as " The War Savings Certificates Enactment, 1918," and shall come into force on the publication thereof in the *Gazette*.

Sums of fifteen dollars may be deposited with the Government.

2. The Chief Secretary to Government may cause to be received at such post offices or other public offices and at such other places, whether within or without the Federated Malay States, as he appoints, deposits of money to such amount as he may think fit in sums of fifteen dollars each, repayable by the Government of the Federated Malay States with interest at the expiration of five years from the date of deposit, as hereinafter provided.

Depositor receives War Savings Certificate for twenty dollars.

3. (i) For every sum of fifteen dollars deposited under Section 2 there shall be issued at the time of deposit to the depositor a certificate, to be termed a War Savings Certificate, containing a promise on the part of the Government of the Federated Malay States to pay to the bearer of such Certificate on demand, at any time after the expiration of five years from the date of the issue of the Certificate, the sum of twenty dollars.

(ii) The War Savings Certificates shall be in such form as the Chief Secretary to Government may approve and shall be authenticated either by the signature of the Chief Secretary to Government or by a fascimile of such signature or in such manner as may be approved by the High Commissioner.

Payment of amounts due under War Savings Certificates.

4. The amount secured by every War Savings Certificate issued under this Enactment shall, after the expiration of five years from the date of the issue thereof, be payable to the bearer thereof on demand, and presentation of the Certificate, at the Post Office at Kuala Lumpur, Ipoh, or Seremban, or at any other place which the Chief Secretary to Government may by notification in the *Gazette* appoint.

Transfer by delivery.

5. Every War Savings Certificate issued under this Enactment and the right to receive the sum thereby promised to be paid shall be transferable by delivery.

Investment in Imperial War securities.

6. (i) All sums deposited in pursuance of this Enactment shall be invested in securities issued under the provisions of any Act passed by the Imperial Parliament to make provision for raising money for the present War and for purposes incidental thereto.

(ii) There shall also be invested in such securities as aforesaid such further amounts from the general revenues of the Federated Malay States that the amount realizable from the investments made under this section shall equal, as nearly as may be, the amount payable in respect of War Savings Certificates issued under this Enactment.

Provision for payment off of War Savings Certificates.

7. If and in so far as the proceeds of investments made in pursuance of Section 6 may be insufficient to pay any sums due in respect of War Savings Certificates, the Chief Secretary to Government shall from time to time appropriate out of the general revenues and assets of the Federated Malay States a sum equal to such deficiency and the amounts due in respect of War Savings Certificates shall be paid from the said proceeds and from any sums so appropriated.

Delivery up of Certificate on repayment.

8. Upon the payment of the amount due in respect of any War Savings Certificate the Certificate shall be delivered up to the officer making the payment.

Exemption from duties and taxes.

9. The War Savings Certificates issued under this Enactment and the amounts secured thereby shall be exempt from all duties and all taxes now levied or leviable or which may hereafter be levied or leviable in the Federated Malay States.

Issue of Certificates may cease and be resumed.

10. The Chief Secretary to Government may from time to time suspend the issue of War Savings Certificates and at pleasure resume the issue thereof.

Certificate not to be held by enemies.

11. No War Savings Certificates shall be issued or transferred to, and no right under or in respect of any War Savings Certificate shall be acquirable by, any person whose sovereign or State is at war with His Britannic Majesty.

Rules.

12. The Chief Secretary to Government may by notification in the *Gazette* make rules to carry out generally the purposes of this Enactment.

ENACTMENT NO. 32 OF 1918.

An Enactment for the Incorporation of the Visitor in the Federated Malay States of the Christian Brothers' Schools.

ARTHUR YOUNG,
President of the Federal Council.

[29th August, 1918.
11th October, 1918.]

WHEREAS the Society of the Christian Brothers known in French as the Institut des Frères des Ecoles Chrétiennes is engaged in promoting English Education and Charity in the Malay Peninsula and Archipelago and for that purpose has established institutions which are carried on under the style of "The Christian Brothers' Schools":

AND WHEREAS the said Society of Christian Brothers is possessed of certain lands in the Federated Malay States which are registered in the name of the several persons and corporations whose names appear in the schedule hereto:

AND WHEREAS the lands of the said Society of Christian Brothers are managed by a person called the Brother Visitor having authority to visit and inspect the Christian Brothers' Schools in the Federated Malay States, the present holder of the said office being the Reverend James Joseph Byrne (generally known as Brother James):

AND WHEREAS it is considered expedient for the better carrying on the financial business of the said Society that the said James Joseph Byrne as such Visitor and his successors in that office should be incorporated:

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows:—

Short title and commencement.

1. This Enactment may be cited as "The Christian Brothers' Schools Visitor Incorporation Enactment, 1918," and shall come into force on the publication thereof in the *Gazette*.

The Visitor in the Federated Malay States of the Christian Brothers' Schools to be a body corporate.

2. The said James Joseph Byrne and his successors for the time being in the office of Visitor in the Federated Malay States of the Christian Brothers' Schools, duly qualified as hereinafter provided, shall be a body corporate and shall by the name of "The Visitor in the Federated Malay States of the Christian Brothers' Schools" have perpetual succession, and shall and may have and use a corporate seal, and the said seal may from time to time break, change, alter, and make anew as to the said corporation may seem fit; and the said corporation is hereby empowered to enter into contracts and to cancel, vary, alter, and rescind the same, to acquire,

purchase, take, hold, and enjoy movable and immovable property of every description, and to sell, transfer, assign, surrender and yield up, charge, demise, re-assign, or otherwise dispose of and deal with any movable or immovable property vested in the said corporation upon such terms as to the said corporation may seem fit, and may lend money, and may sue and be sued in all Courts of Justice.

Vesting of property.

3. As soon as conveniently may be after the passing of this Enactment the persons specified in the schedule hereto shall execute all such instruments of transfer and other instruments and do all such things as may be necessary for transferring to the Visitor in the Federated Malay States of The Christian Brothers' Schools hereby constituted and incorporated the lands specified in the schedule hereto and the Registrars of the Registration Districts in which the said lands are respectively situated shall each in respect of the lands situate in his District on payment of the proper fees register such transfer or instruments in the manner prescribed by law in that behalf and make such entries in the registers in their custody as will effectually vest the said lands in the said Visitor in the Federated Malay States of the Christian Brothers' Schools and thereafter the Visitor in the Federated Malay States of the Christian Brothers' Schools for the purpose of any registered dealing with any of the said lands shall subject to the provisions of this Enactment and of any Enactment for the time being in force providing for the registration of title to land be deemed to be the absolute owner or proprietor thereof.

Use of the corporate seal.

4. All deeds, documents, and other instruments requiring the seal of the said corporation shall be sealed with the seal of the said corporation in the presence of the said James Joseph Byrne or his attorney duly authorized by a power of attorney valid within the Federated Malay States or in the presence of his successor for the time being in the said office of Visitor in the Federated Malay States of the Christian Brothers' Schools or his attorney duly authorized as aforesaid and shall also be signed by the said James Joseph Byrne or his attorney so authorized as aforesaid or his said successor for the time being or his attorney so authorized as aforesaid : and such signing shall be and be taken as sufficient evidence that the said seal was duly and properly affixed and that the same is the lawful seal of the said corporation.

Successive holders of the office of Visitor.

5. No person shall be deemed to be a successor of the said James Joseph Byrne in the office of Visitor in the Federated Malay States of the Christian Brothers' Schools unless and until such person shall have caused the power of attorney, obedience, or other instrument under the hand and seal of the Superior General of the Society of Christian Brothers known in French as the Institut des Frères des Ecoles Chrétiennes, constituting him such Visitor, to be filed in the office of the Chief Secretary to Government and a notification of such filing shall have appeared in the *Gazette*. Such notification shall be sufficient evidence of the appointment and that the person named therein is a successor of the said James Joseph Byrne in the office of Visitor of the said Christian Brothers' Schools in the Federated Malay States.

SCHEDULE.

Nature of Title.	Plan No.	Acreage.	Registered Name.
		A. R. P.	
	STATE OF PERAK.		
Kinta Certificate of Title No. 752	13,826	5 2 38	The Director in Penang of St. Xavier's Institution and successors in office
Kinta Certificate of Title No. 546	12,798	2 2 20	Do.
Kinta Certificate of Title No. 544	12,799	0 1 30	Do.
Kinta Certificate of Title No. 521	12,621	0 0 01	Do.
Larut Grant for Land No. 2,025	95-6-11	0 2 34	Brother James Director in Penang of St. Xavier's Institution or his successors in office
Larut Certificate of Title No. 733	LOT 695	SQ. FT. 1,800	The Director in Penang of St. Xavier's Institution
Larut Certificate of Title No. 734	696	1,800	Do.
Larut Certificate of Title No. 735	697	1,800	Do.
Larut Certificate of Title No. 736	698	1,800	Do.
Larut Certificate of Title No. 737	699	1,800	Do.
Larut Certificate of Title No. 738	700	1,800	Do.
Larut Certificate of Title No. 739	701	1,800	Do.
Larut Certificate of Title No. 740	702	1,800	Do.
Larut Certificate of Title No. 816	319	1,800	Do.
Larut Certificate of Title No. 817	320	1,800	Do.
Larut Certificate of Title No. 818	321	1,800	Do.
Larut Certificate of Title No. 819	322	1,800	Do.
Larut Certificate of Title No. 820	324	1,800	Do.
Larut Certificate of Title No. 821	325	1,800	Do.
Larut Certificate of Title No. 822	326	1,800	Do.
Larut Certificate of Title No. 823	327	1,800	Do.

Nature of Title.	Plan No.	Acreage.	Registered Name.
		A. R. P.	
STATE OF SELANGOR.			
Grant for Land No. 4,373	5,822	0 0 26·5	The Director in Penang of St. Xavier's Institution and his successors in office
Land Grant No. 1,831	472	0 1 22	Do.
STATE OF NEGRI SEMBILAN.			
Grant for Land No. 2,411	581	9 0 15	The Director in Penang of St. Xavier's Institution and his successors in office
Grant for Land No. 7,491	3,655	0 1 24·8	The Director of St. Joseph's Institution, Singapore
Grant for Land No. 1,362	82-4-14	SQ. FT. 2,000	Do.

ENACTMENT NO. 34 OF 1918.

An Enactment to repeal and re-enact with amendments "The Forest Enactment, 1914," being the law relating to Forests and Forest Produce.

ARTHUR YOUNG,
President of the Federal Council.

[26th December, 1918.
9th January, 1919.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

PART I.

PRELIMINARY.

Short title, commencement, repeal, and savings.

1. (i) This Enactment may be cited as "The Forest Enactment, 1918," and shall come into force on the publication thereof in the *Gazette*.

(ii) Upon the coming into force of this Enactment the Enactments specified in the schedule shall be repealed.

(iii) All appointments made, powers and authorities conferred, and rules which may be in force as law under any provisions of the Enactments hereby repealed, and all licenses and permits issued under any Enactment hereby repealed which were in force immediately prior to the commencement of this Enactment shall, so far as they are not inconsistent with the provisions of this Enactment, be deemed to have been made, conferred, and issued under this Enactment.

Interpretation.

2. In this Enactment, unless there is something repugnant in the subject or context,

"Alienated land" means land in any State sold, leased, or otherwise disposed of on behalf of the Ruler of such State in consideration of the payment of rent and of such premium, if any, as may be required ;

"Cattle" includes also elephants, buffaloes, horses, ponies, mules, asses, pigs, sheep, and goats ;

"Classification mark" means a mark placed on timber to denote its origin or the agency by which it has been handled ;

"Collector" means any Collector duly appointed under "The Land Enactment, 1911" ;

"Deputy Conservator" includes any forest officer directly responsible to the Conservator or to the Resident for the administration of the forests of the whole or any part of a State ;

"District Officer" includes, with reference to any State, any person whom the Resident of such State may by notification in the *Gazette* appoint to perform any of the duties assigned to a District Officer by this Enactment, and, in the case of districts in which there is no District Officer, the Collector ;

"Forest offence" means an offence punishable under this Enactment ;

"Forest officer" means any person appointed under this Enactment to be a Conservator, Deputy Conservator, Extra Deputy Conservator, Assistant Conservator, Extra Assistant Conservator, Forest Ranger, Forester or Forest Guard, or to discharge any function of a forest officer under this Enactment ;

"Forest produce" includes

(*a*) the following when found in or brought from a reserved forest—that is to say,

guano, peat, rock, sea-sand, sea-shells, shell-sand, and surface soil ;

(*b*) the following when found in or brought from a reserved forest or State land—that is to say,

(1) trees and all parts or produce not hereinafter mentioned of trees ;

(2) plants including climbers, creepers, and grasses, and all parts or produce of such plants ;

(3) tusks, horns, silk cocoons, honey and wax, and edible birds' nests ; and

(*c*) the following whether found in or brought from a reserved forest, State land, or alienated land—that is to say, timber, firewood, charcoal, getah, getah taban leaves, wood-oil, bark, extracts of bark, damar, and atap ;

"Judicial enquiry" means an enquiry which is legally held in the presence of an accused person and in which the evidence is recorded in the manner prescribed by the Criminal Procedure Code in force for the time being ;

"Magistrate" means a Magistrate of the first or second class ;

"Property mark" means a mark placed on timber to denote that, after all purchase money or royalties due to the Government have been paid, the person in whose name such mark is registered has or will have a right of property in the timber ;

"Reserved forest" means, and includes every part of a forest declared to be a reserved forest under the provisions of Section 12 or declared to be a reserved forest or constituted a forest reserve under the provisions of any Enactment in force in the Federated Malay States or any State of the Federated Malay States prior to the commencement of this Enactment, which shall not at the time being have ceased to be a reserved forest under Section 25 of this Enactment or under the provisions of any other Enactment ;

"River" includes also streams, canals, creeks and other channels, natural or artificial ;

"State land" means all lands which have not been and may not hereafter be reserved for any public purpose or which have not been and may not hereafter be leased or granted to or are not and may not hereafter be lawfully occupied by any person and includes all lands which at the commencement of this Enactment may have become or which hereafter may become forfeited by reason of any breach of the conditions on which the same have been lawfully occupied or which have been or may hereafter be surrendered to the State wherein they are situate by the lawful owner thereof;

"The State" means with reference to any land or any right or interest therein or any matter whatsoever incidental thereto the State in which such land is situate and "the Resident" means the Resident of that State;

"Timber" includes trees, when they have fallen or been cut down, and all wood (including severed or fallen roots or stems or branches of palms or of bamboos or of canes) whether cut up or fashioned or hollowed out for any purpose or not;

"Tree" includes palms, bamboos, stumps, brushwood, and canes.

PART II.

RESERVED FORESTS.

Power to constitute reserved forests.

3. The Resident may constitute any land a reserved forest in manner hereinafter provided.

Notification of proposal to constitute a reserved forest.

4. Whenever it is proposed to constitute any land a reserved forest, the Resident shall publish in the *Gazette* a notification—

(*a*) specifying as nearly as possible the situation and limits of such land, and

(*b*) declaring that it is proposed to constitute such land a reserved forest.

Proclamation by District Officer.

5. When a notification has been published under Section 4, the District Officer shall publish in convenient places in the vicinity of the said land, and elsewhere as he may deem expedient, a proclamation in the English and Malay languages, and in such other languages as the Resident may in any particular case direct,

(*a*) specifying as nearly as possible the situation and limits of the forest proposed for reservation;

(*b*) setting forth the provisions in substance of the next following section;

(*c*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(*d*) fixing a period of not less than three months from the date of the publication of such proclamation, and requiring every person who has any objection to the reservation of such forest, or who claims to exercise any right or privilege in or over any part of the said forest, either to present to such officer within such period as aforesaid a written notice specifying, or to appear before him within such period and state, the nature of such objection, right, or privilege.

Bar of accrual of forest rights, and of new buildings and cultivation, after proclamation.

6. During the interval between the publication of such proclamation and the date fixed by the notification declaring the forest to be reserved as hereinafter provided no new right shall be acquired in or over any State land mentioned in such proclamation, and on such land no new house shall be built or plantation formed and no fresh clearings for cultivation or for any other purpose shall be made ; provided that nothing in this section shall be deemed to prohibit any act done with the permission in writing of the District Officer or in conformity with the terms of a license or permit issued by a forest officer in whom the power to issue such license or permit was vested before the proclamation was published.

Enquiry by District Officer.

7. (i) The District Officer shall

(*a*) take down in writing all statements made in response to his requirement under Section 5 (*d*) ;

(*b*) enquire into all objections raised and claims made in response to his said requirement and into the existence in or over the forest of any right or privilege which is or has been exercised but in respect of which no claim is made ;

(*c*) consider and record any opinion which the Deputy Conservator may express as to any objections that may have been raised to the proposed reservation or as to the rights to be admitted or privileges to be conceded in or over the forest proposed to be reserved.

(ii) For the purposes of any enquiry under this section the District Officer may exercise—

(*a*) the powers of a settlement officer under "The Land Enactment, 1911," and

(*b*) the powers conferred on a Civil Court by the Civil Procedure Code in force for the time being for compelling the attendance of witnesses and the production of documents.

Order by Resident.

8. The District Officer shall then with all convenient speed forward to the Resident a statement of particulars of all objections, rights, privileges, and opinions recorded by him under Section 7 ; and the Resident, after reference to the Conservator and after such further enquiry as he may think necessary, shall make an order admitting or rejecting such objections and rights and conceding, modifying, or disallowing the exercise of such privileges, either wholly or in part, as shall seem to him right.

Regulation of rights admitted and privileges conceded.

9. Every order made under Section 8 or Section 14 admitting a right or conceding a privilege in respect of forest produce within a forest proposed for reservation or reserved shall prescribe, as far as possible, the quantity and nature of forest produce which may be taken or received in exercise of such right or privilege, and the exercise of such right or privilege shall be subject to the control of the Conservator and to such orders as he may make with the approval of the Resident to regulate the local limits within which and the mode in which such forest produce may be taken or received within the reserved forest.

Acquisition of alienated lands for inclusion in reserved forest.

10. If the Resident shall consider it expedient to include in a reserved forest any land leased or granted to, or otherwise lawfully occupied by, any person, he may on behalf of the Ruler of the State cause such land to be acquired as for a public purpose in accordance with the provisions of Part VII of "The Land Enactment, 1911," and thereafter include such land within the limits of such reserved forest.

Abandonment of proposal to reserve.

11. (i) The Resident may, at any time before the publication of a notification under Section 12, withdraw from a proposal to constitute any land a reserved forest.

(ii) When such withdrawal is determined on, a proclamation shall be published by the District Officer, in the same places and in the same manner in which the proclamation under Section 5 was published, announcing that the proposed reservation has been abandoned.

(iii) On the publication of such proclamation the provisions of Section 6 shall cease to apply to such land.

Notification declaring reserved forest.

12. (i) When the following events have occurred—namely,

(*a*) the period fixed under Section 5 (*d*) has elapsed and all objections and claims, if any, made within such period have been disposed of by the Resident, and

(*b*) All lands, if any, to be included in the forest proposed for reservation which the Resident has, under Section 10, elected to acquire under Part VII of "The Land Enactment, 1911," have under that Enactment vested in the Ruler of the State,

the Resident may, with the approval of the Chief Secretary to Government, publish in the *Gazette* a notification specifying the limits of the forest which it is intended to reserve, declaring the same to be reserved from a date fixed by such notification, mentioning the rights admitted and privileges conceded in respect of the said forest and stating the special conditions, if any, governing the reservation thereof.

(ii) From the date so fixed such forest shall be a reserved forest and shall, together with all the produce thereof and things found therein, be deemed to be the property of the Government, to be maintained and controlled by the Conservator, subject only to the rights, privileges, and conditions mentioned in such notification.

Publication of notification prior to operation thereof.

13. The District Officer of the district in which such forest is situate shall, before the date fixed by the notification under Section 12, cause the said notification to be published in the manner prescribed for the proclamation under Section 5.

Extinction of rights not claimed.

14. When the notification prescribed by Section 12 has been published, rights in respect of which no claim has been made in response to the requirement of the District Officer under Section 5 (*d*), and of the existence of which no knowledge has been acquired by enquiry under Section 7, shall be extinguished from the date therein fixed ; provided that any such rights may, with the approval of the Chief Secretary to Government, be enquired into and dealt with in

the manner provided by Sections 7, 8, and 9 at any time within three years from the date fixed by the said notification, and any order made thereon shall be published in the manner prescribed for the proclamation under Section 5.

Further enquiry by District Officer.

15. The Resident may, within five years from the date fixed by the notification under Section 12, direct that a further enquiry be held by the District Officer and, with the approval of the Chief Secretary to Government, may, by notification in the *Gazette*, rescind or modify any orders made under Section 8 or Section 14.

Commutation and annulment of rights.

16. The Resident, after such enquiry as he may deem necessary and with the approval of the Chief Secretary to Government, may at any time either wholly or in part

(*a*) commute a right admitted under Section 8 or Section 14 either for a money payment, or for a similar right exercisable elsewhere, or otherwise as he may deem just;

(*b*) by notification in the *Gazette* annul any such right, either permanently or for a stated period, where the right-holders shall have failed to submit to the control provided for in Section 9 or to abide by any order made under that Section;

(*c*) by notification in the *Gazette* annul permanently any such right of any person or body of persons who or which shall have failed for a continuous period exceeding five years to exercise the same.

Rescission and modification of privileges and conditions.

17. The Resident, after such enquiry as he may deem necessary and with the approval of the Chief Secretary to Government, may at any time, by notification in the *Gazette*, rescind or modify any privilege conceded under Section 8 or any condition governing the reservation of a forest.

Claims to compensation barred.

18. No person shall be entitled to compensation in respect of anything done under the provisions of either of the two last preceding sections.

Acquisition of right in or over reserved forest.

19. No right of any description shall be acquired in or over a reserved forest except by succession or under a grant or contract in writing made by the Resident, with the sanction of the Chief Secretary to Government, or by some person in whom such right, or the power to create such right, was vested when the notification under Section 12 was published.

Prohibition of transfer of rights and privileges.

20. Notwithstanding anything herein contained, no right admitted or privilege conceded under Section 8 or Section 14 shall be transferred by way of grant, sale, lease, mortgage, or otherwise, except with the authority of the Resident.

Power to stop way or water-course in reserved forest.

21. Any forest officer may from time to time, with the previous sanction of the Resident, stop any public or private way or water-course in a reserved forest; provided that for the way or water-course so stopped another way or water-course which, in the opinion of the Resident, is equally convenient already exists or has been provided or constructed by the forest officer stopping the way or water-course.

Acts prohibited in a reserved forest.

22. Subject to the provisions of Section 24, no person shall in a reserved forest

(*a*) trespass, or pasture cattle, or permit cattle to trespass ; or

(*b*) fell, cut, ring, mark, lop, or tap any tree, or injure by fire or otherwise any tree or timber ; or

(*c*) cause any damage by negligence in felling any tree or cutting or dragging any timber ; or

(*d*) quarry stone, burn lime or charcoal, or search for, collect, subject to any manufacturing process, or remove any forest produce or minerals ; or

(*e*) clear or break up any land for cultivation or any other purpose.

Prohibition as to fire.

23. Subject to the provisions of Section 24, no person shall kindle, keep, or carry any fire, or leave any fire burning, whether within or without a reserved forest, in such a manner as to endanger such a forest.

Acts excepted from Sections 19, 22, 23, 38, and 39.

24. Nothing in Section 19, 22, 23, 38, or 39 shall be deemed to prohibit or render punishable—

(*a*) the exercise, in accordance with the orders, if any, made under Section 9, of any right admitted under Section 8 or Section 14 to take forest produce in a reserved forest ; or

(*b*) the exercise of any right created by grant or contract in the manner described in Section 19 ; or

(*c*) any act done with the permission in writing of a forest officer expressly empowered under this Enactment to grant such permission.

Power to declare forest no longer reserved.

25. (i) The Resident, with the approval of the Chief Secretary to Government, may, by notification in the *Gazette*, direct that from a date to be fixed by such notification any reserved forest, or any portion thereof, shall cease to be reserved.

(ii) From the date so fixed such forest or portion thereof shall cease to be reserved, but the rights, if any, which have been extinguished therein shall not revive in consequence of such cessation.

PART III.

GENERAL PROTECTION OF FORESTS AND FOREST PRODUCE.

Power to make rules for protection of forest produce.

26. Subject to any existing legal or customary rights, the Resident of a State may, with the approval of the Chief Secretary to Government, by rules operative within such State,

(*a*) regulate or prohibit the kindling of fires on State land and prescribe the precautions to be taken to prevent the spreading of fires ;

(*b*) regulate, by licensing or otherwise, or prohibit the felling, cutting, ringing, marking, lopping, tapping, or injuring by fire or otherwise of any trees or timber, the sawing, conversion, and removal of timber, and the collection

and removal of other forest produce; provided that in the case of land which now is or hereafter may be alienated no such license shall be issued except to the owner of such land or with his consent;

(*c*) regulate or prohibit the manufacture of extracts of bark and the burning of charcoal;

(*d*) regulate the sale, purchase, storage, or free grant of forest produce;

(*e*) prohibit any dealings in specified kinds of forest produce and make it an offence to be found in possession thereof;

(*f*) prescribe the fees, royalties, or other payments for forest produce, and the manner in which such fees, royalties, or other payments are to be levied, whether in transit or partly in transit or otherwise; and

(*g*) prescribe the penalties with which the contravention of any rule made under this section shall be punishable, but so that such penalties shall not exceed those prescribed by Section 40;

and may exempt any person or class of persons or any local area from the operation of any rule made under this section.

Acts done by right or by permission or by Malay subjects of the Rulers.

27. (i) Subject to the proviso to paragraph (*b*) of this section, nothing in any rule under this Part shall be deemed to prohibit

(*a*) any act done in the exercise of any right or with the permission in writing of a forest officer expressly empowered under this Enactment to grant such permission;

(*b*) the cutting and removal from State land or, with the written permission of the owner, from alienated land by any Malay subject of any of the Rulers of the Federated Malay States of any timber, atap, or other forest produce, which may be necessary for the construction or repair of a dwelling-house for the permanent abode of himself and his family, for the construction of temporary huts on and the fencing of his own land, for the upkeep of his fishing stakes and landing places, for firewood to be consumed by himself for domestic purposes, or for the construction or upkeep of any work for the common benefit of the Malay inhabitants of his mukim born in the Federated Malay States. Provided that the Resident may, with the approval of the Chief Secretary to Government, by rule prohibit such cutting or removal in respect of any specified form of forest produce or of all or any forest produce in any specified locality.

(ii) For the purposes of this section

(*a*) "Malay" means a person belonging to any Malayan race who habitually speaks the Malay language or any Malayan language and professes the Moslem religion;

(*b*) every Malay born within a State which is one of the Federated Malay States shall be deemed to be a subject of the Ruler of such State.

PART IV.

CONTROL OF FOREST PRODUCE IN TRANSIT.

Power to make rules to regulate transit of forest produce.

28. (i) The Resident of a State may, with the approval of the Chief Secretary to Government, make rules to regulate the transit within such State, by land or water, of any forest produce, and the floating of timber in the rivers of such State, and may direct that any rule made under this section shall not apply to any specified class of forest produce or to any specified local area.

(ii) In particular and without prejudice to the generality of the foregoing power such rules may—

(*a*) prescribe the routes by which alone forest produce may be imported into, exported from, or moved within such State ;

(*b*) prohibit the import, export, collection, or moving of forest produce without a pass from an officer authorized to issue the same, or otherwise than in accordance with the conditions of such pass ;

(*c*) provide for the issue, production, and return of such passes ;

(*d*) fix the fees payable for such passes ;

(*e*) in the case of timber formed into a raft or fastened to the shore, prohibit the loosening or the setting adrift of such timber by any person not the owner thereof or not acting on behalf of such owner or of the Government ;

(*f*) provide for the stoppage, reporting, examination, and marking of forest produce in transit ;

(*g*) establish checking stations to which forest produce is to be taken by the persons in charge of it for examination or for the realization of money due to the Government in respect thereof or in order that a mark may be affixed thereto for the purposes of this Enactment, and prescribe the conditions under which forest produce is to be brought to, detained at, and removed from, such checking stations ;

(*h*) provide for the management and control of such checking stations ;

(*i*) prohibit, absolutely or subject to conditions, within specified limits, the establishment of sawmills or sawpits, the converting, cutting, burning, concealing, or marking of timber, the altering or effacing of any property marks or classification marks on the same, and the possession of marking hammers or other implements used for marking timber ;

(*j*) regulate the use of marks for timber and the registration of such marks, authorize the refusal or cancellation of the registration of such marks, prescribe the time for which the registration of such marks is to hold good, limit the number of such marks which may be registered by any one person, and prescribe fees for registration ;

(*k*) provide for the issue of licenses to be in possession of marking hammers and for the payment of fees for such licenses ; and

(*l*) prescribe the penalties with which the contravention of any rule made under this section shall be punishable, but so that such penalties shall not exceed those prescribed by Section 40.

Unclaimed timber.

29. (i) Timber found adrift, beached, stranded, or sunk, or which is not in the possession or under the control of any person, shall be deemed to be the property of the Government unless and until any person establishes his right thereto as provided in this Part.

(ii) Such timber may be collected by any forest officer or other person duly authorized under this Enactment and may be brought to such stations as the Conservator may from time to time notify as stations for the reception of unclaimed timber.

Public notice of timber collected under Section 29.

30. (i) Public notice of all timber collected under the last preceding section shall from time to time, as occasion may require, be given by a forest officer expressly empowered in that behalf under this Enactment.

(ii) Such notice shall contain a description of the timber and shall require any person claiming the same to make his claim to the Deputy Conservator within a period not less than one month from the date on which such notice is given.

Procedure on claim to timber.

31. (i) When any such claim is made as aforesaid, the Deputy Conservator may, after making such enquiry as he thinks fit, either reject the claim after recording his reasons for so doing or deliver the timber to the claimant.

(ii) If such timber is claimed by more than one person, the Deputy Conservator may either deliver the same to any of such persons whom he deems entitled thereto or may refer the claimants to the Civil Court and retain the timber pending the receipt of an order from such Court for its disposal.

Disposal of unclaimed timber.

32. Where no claim is made within the period prescribed by notice issued under Section 30, or where such claim has been made and rejected, the ownership of such timber shall vest in the Government free from all incumbrances, or, when such timber has been delivered to another person under Section 31, in such other person free from all incumbrances not created by him.

Payment to be made by claimant before delivery of timber.

33. No person shall be entitled to recover possession of any timber collected as aforesaid until the amount of any reasonable expense incurred in collecting, moving, storing, and disposing of the timber has been paid by him to the forest officer or other person entitled to receive the same.

Power to make rules as to collection and disposal of unclaimed timber.

34. The Resident of a State may, with the approval of the Chief Secretary to Government, make rules for the regulation within such State of the following matters—namely,

(*a*) the collection and disposal of all timber mentioned in Section 29 ;

(*b*) the manner of publication of public notices under Section 30 ;

(*c*) the penalties with which the contravention of any rule made under this section shall be punishable, but so that such penalties shall not exceed those prescribed by Section 40.

PART V.

PENALTIES AND PROCEDURE.

Power to arrest without warrant.

35. (i) Any forest officer or police officer may without a warrant arrest any person reasonably suspected of having been concerned in any forest offence punishable with imprisonment for one month or upwards, if such person refuses to give his name and residence or gives a name or residence which there is reason to believe to be false or if there is reason to believe that he will abscond.

(ii) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case or to the officer in charge of the nearest police station or, if the offence is compoundable under Section 44, before an officer empowered under that section to accept compensation.

Seizure of property the subject of, or used in committing, a forest offence.

36. (i) When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce, together with all tools, boats, carts, and cattle used in the commission of such offence, may be seized by any forest officer or police officer.

(ii) Every officer seizing any property under this section shall place on such property, or on the receptacle, if any, in which it is contained, a mark indicating that the same has been so seized and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made. Provided that, in any case where such property has been seized in connection with an offence dealt with by a forest officer in the exercise of powers conferred under Section 44 or committed by some person unknown or who cannot be found, it shall not be necessary to report to a Magistrate the seizure thereof.

Presumption that forest produce belongs to the Government.

37. When in any proceedings taken under this Enactment or in consequence of anything done under this Enactment a question arises as to whether any forest produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

Penalty for trespass or damage in reserved forest.

38. Subject to the provisions of Section 24, whoever in a reserved forest—

(*a*) wilfully trespasses, or pastures cattle, or permits cattle to trespass ; or

(*b*) causes any damage by negligence in felling any tree or cutting or dragging any timber ;

shall be guilty of an offence and liable on conviction to fine which may amount to fifty dollars or, when the damage resulting from

his offence amounts to more than twenty-five dollars, to double the amount of such damage.

Penalty for other offences.

39. Subject to the provisions of Section 24, whoever—

(*a*) makes any fresh clearing or does any other act in contravention of Section 6 ; or

(*b*) kindles, keeps, or carries any fire, or leaves any fire burning in contravention of Section 23 or of any instructions to ensure the safety of reserved forests which the Deputy Conservator may from time to time notify in the prescribed manner ; or

in a reserved forest—

(*c*) fells, cuts, rings, marks, lops, or taps any tree, or injures by fire or otherwise any tree or timber ; or

(*d*) quarries stone, burns lime or charcoal, or searches for, collects, subjects to any manufacturing process, or removes any forest produce or minerals ; or

(*e*) clears or breaks up any land for cultivation or any other purpose ;

shall be guilty of an offence and liable on conviction to imprisonment of either description for a term not exceeding six months or to fine not exceeding five hundred dollars or to both.

Penalty for breach of rules under Sections 26, 28, and 34.

40. Subject to the provisions of Section 27, whoever commits a breach of any rule made under Section 26, 28, or 34, for the breach of which no penalty is expressly prescribed by rule, shall be guilty of an offence and liable on conviction to imprisonment of either description for a term not exceeding six months or to fine not exceeding five hundred dollars or to both.

Penalty for wrongful seizure.

41. (i) Whoever, being a forest officer or police officer, vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Enactment shall be guilty of an offence and liable on conviction to imprisonment of either description for a term not exceeding six months or to fine not exceeding five hundred dollars or to both.

(ii) Any fine imposed under sub-section (i), or any portion thereof, shall, if the convicting Court so directs, be given as compensation to the person aggrieved by such seizure.

Penalty for counterfeiting or defacing, or possessing implements for counterfeiting, marks on trees and timber and for altering boundary marks.

42. Whoever, with intent to cause wilful damage or injury to the public or to any person or to cause wrongful gain as defined in the Penal Code,

(*a*) knowingly counterfeits upon any tree or timber, or has in his possession any implement for counterfeiting, a mark used by forest officers to indicate that such tree or timber is the property of the Government or of some person or that it may lawfully be felled or removed by some person ; or

(*b*) unlawfully or fraudulently affixes to any tree or timber a mark used by forest officers or registered in the name of another person ; or

(*c*) alters, defaces, or obliterates any such mark placed on any tree or timber by or under the authority of a forest officer ; or

(*d*) alters, moves, destroys, or defaces any boundary mark of a reserved forest or of any land proposed to be included in a reserved forest ;

shall be guilty of an offence and liable on conviction to imprisonment of either description for a term not exceeding two years or to fine or to both.

Double penalty in certain cases.

43. If a breach of any of the provisions of this Enactment or of any rule made thereunder is committed—

(*a*) after sunset and before sunrise ; or

(*b*) after preparation for resistance to the execution of any law or any legal process ; or

(*c*) after a previous conviction of the offender for a like offence ;

the convicting Court may inflict double the penalty prescribed for such offence.

Power to compound forest offences.

44. (i) The Chief Secretary to Government may, by notification in the *Gazette*, empower any forest officer, either by name or by virtue of his office,

(*a*) to accept from any person against whom a reasonable suspicion exists that he has committed any forest offence, other than an offence specified in Section 41 or Section 42, a sum of money not exceeding fifty dollars by way of compensation for the offence which such person is suspected to have committed ; and

(*b*) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer ;

and all sums so received by any forest officer shall be credited to revenue.

(ii) On the payment of such sum of money or such value or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(iii) Any power vested in a forest officer by a notification under sub-section (i) may at any time be withdrawn by the Chief Secretary to Government by notification in the *Gazette*.

Compensation for damage caused by commission of forest offence.

45. (i) When any person is convicted of removing, felling, cutting, ringing, marking, lopping, or tapping trees or timber, or of injuring them by fire or otherwise, in contravention of this Enactment, the convicting Court may, in addition to any other punishment which it may award, order that person to pay to the Government such compensation for each tree or piece of timber in respect whereof the offence was committed, not exceeding twice the value thereof, as it deems just.

(ii) If the person convicted of the offence committed it as the agent or servant of another person, the convicting Court may, unless

after hearing that other person it is satisfied that the commission of the offence was not a consequence of his instigation or of any neglect or default on his part, order him, instead of the person who committed the offence, to pay the compensation referred to in sub-section (i).

Confiscation of property the subject of, or used in committing, a forest offence.

46. (i) When any person is convicted of a forest offence, all forest produce which is not the property of the Government and in respect of which such offence has been committed, and all tools, boats, carts, and cattle used in the commission of such offence, shall be liable, by order of the convicting Court, to confiscation.

(ii) Such confiscation may be in addition to any other penalty prescribed for such offence.

Disposal of produce the subject of a forest offence.

47. When the trial of any forest offence is concluded, any forest produce in respect of which such offence has been committed shall, if it is the property of the Government or has been confiscated, be delivered to such forest officer as the Court may order, and, in any other case, may be disposed of in such manner as the Court may order.

Power to take possession of, and dispose of, property the subject of, or used in committing, a forest offence, where offender unknown or not found.

48. (i) Where there is reason to believe that a forest offence has been committed by a person who is unknown or cannot be found, all property seized in respect thereof under Section 36 shall, unless it has been disposed of under Section 47, be taken possession of, and may be disposed of, by a forest officer expressly empowered in that behalf under this Enactment ; but no such property, not being the property of the Government, shall be sold or otherwise disposed of until the expiration of one month from the date of the seizure of such property or without hearing the person, if any, claiming any right thereto and the evidence, if any, which he may produce in support of his claim.

(ii) When possession is taken of any property under sub-section (i), the forest officer so taking possession shall either cause a notice thereof to be served upon any person whom he has reason to believe to be interested in the property seized or publish such notice in any way which he thinks fit.

Sale of perishable property seized.

49. A Magistrate, or a forest officer expressly empowered in that behalf under this Enactment, may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under Section 36 and subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with such property if it had not been sold.

Appeal against order or act under Section 46, 47, or 48.

50. (i) Any person claiming to be interested in property seized under Section 36 may

(*a*) within one month from the date of any order made in respect of such property by a Magistrate under Section 46 or Section 47 prefer an appeal against such order to the Supreme Court, or

(*b*) within one month from the service or publication of a notice in respect of such property by a forest officer under Section 48 prefer an appeal against the taking possession of such property to the Resident.

(ii) The order of the Supreme Court or of the Resident, as the case may be, made on such appeal shall be final.

Vesting in the Government of property confiscated or taken possession of.

51. When an order for the confiscation of any property has been made under Section 46 or possession has been taken of any property under Section 48, and

(*a*) the period limited by Section 50 for preferring an appeal against such order or such taking possession has elapsed and no such appeal has been preferred, or

(*b*) on an appeal against such order or such taking possession the appellate authority confirms such order or such taking possession in respect of the whole or a portion of such property,

such property or portion, as the case may be, shall vest in the Government free from all incumbrances.

Power to release property seized and withdraw charges.

52. Notwithstanding anything hereinbefore contained, any forest officer empowered under Section 44 to compound forest offences may at any time direct the immediate release of any property seized under Section 36 which is not the property of the Government and the withdrawal of any charge made in respect of such property.

Prosecution, who may conduct.

53. The prosecution before any Court of any person charged with a forest offence may be conducted by the Conservator or a Deputy Conservator or by any forest officer authorized, either specially or generally, by the Conservator or a Deputy Conservator in writing in that behalf.

Recovery of money due to the Government.

54. All money, other than fines, payable to the Government under this Enactment or on account of the price of any forest produce or of expenses incurred in the execution of this Enactment in respect of any forest produce may, if not paid when due, be recovered in the manner provided by law for the recovery of fines.

Charge on forest produce for money due to the Government.

55. (i) When any such money as is referred to in the last preceding section is payable for, or in respect of, any forest produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by the Conservator or a Deputy Conservator or by any forest officer authorized, either specially or generally, by the Conservator or a Deputy Conservator in writing in that behalf and may be retained by him until such amount has been paid.

(ii) If the amount is not paid when due, such forest officer may sell the said produce by public auction and the proceeds of the sale shall be applied first in payment of the amount due.

(iii) The surplus, if any, if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to the Government.

Recovery of penalty due under bond.

56. When any person, in compliance with any rule under this Enactment, binds himself by any instrument to perform any duty or act or covenants by any instrument that he, or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a

breach of the conditions thereof may, notwithstanding anything in Section 74 of the Contract Enactments, 1899 (Pahang, 1900), be recovered from him in case of such breach in the manner provided by law for the recovery of fines.

PART VI.

FOREST OFFICERS.

Appointment of forest officers.

57. (i) The Conservator of Forests shall be appointed by the Chief Secretary to Government and shall have the general superintendence throughout the Federated Malay States of all matters within the provisions of this Enactment.

(ii) The Conservator may from time to time, with the approval of the Chief Secretary to Government, appoint and when appointed remove such and so many Deputy Conservators, Extra Deputy Conservators, Assistant Conservators, Extra Assistant Conservators, Forest Rangers, Foresters, Forest Guards, and other officers as may be necessary for carrying out the purposes of this Enactment.

(iii) The appointments of the Conservator and of all Deputy and Assistant Conservators shall be notified in the *Gazette*.

Investiture of forest officers with certain powers.

58. (i) The Resident of a State may, with the approval of the Chief Secretary to Government, invest any forest officer, either specially or generally, with all or any of the following powers, to be exercised within such State for the purposes of this Enactment—namely,

(*a*) power to compel the attendance of witnesses and production of documents ;

(*b*) power to issue such search warrants as may be issued by Courts under the Criminal Procedure Code in force for the time being ;

(*c*) power to hold judicial enquiries into forest offences and in the course of such enquiries to receive and record evidence ;

(*d*) power to grant any permission referred to in Sections 24 and 27 ;

(*e*) power to give public notice under Section 30 of timber collected under Section 29 ;

(*f*) power to take possession of and dispose of property under Section 48 ;

(*g*) power to direct the sale of perishable property under Section 49 ;

and may, with the like approval, withdraw any of the said powers from any forest officer invested therewith under this sub-section.

(ii) All or any of the powers specified in paragraphs (*a*) to (*g*), inclusive, of sub-section (i) may be exercised by the Conservator in any part of the Federated Malay States.

Forest officers to be deemed public servants.

59. All forest officers shall be deemed to be public servants within the meaning of the Penal Code.

Forest officers not to trade.

60. No forest officer shall, as principal or agent, trade in forest produce or be or become interested in any lease of or charge on any forest or forest produce or in any contract for working any forest.

PART VII.

SUPPLEMENTAL.

Additional power to make rules.

61. (i) In addition to the powers hereinbefore conferred, the Resident of a State may, with the approval of the Chief Secretary to Government, make rules to carry out within such State the objects and purposes of this Enactment.

(ii) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare by what forest officer or class of forest officers the powers or duties conferred or imposed by or under this Enactment on a forest officer are to be exercised or performed ;

(*b*) regulate the procedure of District Officers under Part II ;

(*c*) regulate the rewards to be paid to officers and informers from the proceeds of fines and confiscations under this Enactment or from the public treasury ;

(*d*) prescribe the manner of notifying instructions of a Deputy Conservator under Section 39 ; and

(*e*) prescribe the fees to be payable under this Enactment.

Publication and effect of rules.

62. All rules made under this Enactment shall be published in the *Gazette* and shall thereupon have the same effect as if enacted by this Enactment.

Land required under this Enactment to be deemed to be needed for a public purpose.

63. Whenever it appears to the Resident that any land is required for any of the purposes of this Enactment, such land shall be deemed to be needed for a public purpose within the meaning of Part VII of "The Land Enactment, 1911."

The Government not liable for loss or damage in respect of certain forest produce.

64. The Government shall not be responsible for any loss or damage which may occur in respect of any forest produce while at a checking station or while detained elsewhere for the purposes of this Enactment or in respect of any timber collected under Section 29.

Admissibility in Courts of evidence recorded by forest officers.

65. Evidence recorded by a forest officer in a judicial enquiry shall be admissible in any subsequent enquiry or trial before a Magistrate or Court.

Provisions as to actions.

66. (i) No action shall be brought against any person for anything done or *bonâ fide* intended to be done in the exercise or supposed exercise of the powers given by this Enactment or by rules made thereunder—

(*a*) without giving to such person one month's previous notice in writing of the intended action and of the cause thereof ;

(*b*) after the expiration of three months from the date of the accrual of the cause of the action ;

(*c*) after tender of sufficient amends.

(ii) In every action so brought it shall be expressly alleged that the defendant acted either maliciously or negligently and without reasonable or probable cause, and if at the trial the plaintiff shall fail to prove such allegation judgment shall be given for the defendant.

(iii) Though judgment shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Court, before which the action is tried, shall certify its approbation of the action.

SCHEDULE.

ENACTMENTS REPEALED.

No. and year.	Short title.
18 of 1914	The Forest Enactment, 1914
7 of 1916	The Forest Enactment, 1914, Amendment Enactment, 1916

ENACTMENT NO. 36 OF 1918.

As amended by Fed. E. 14 of 1919.

An Enactment to restrict temporarily the persons who may engage in business connected with certain non-ferrous metals and metallic ores.

ARTHUR YOUNG,
President of the Federal Council.

[26th December, 1918.
21st May, 1919.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and duration.

1. (i) This Enactment may be cited as " The Non-Ferrous Metal Industry Enactment, 1918," and shall come into force on the publication thereof in the *Gazette*.

(ii) This Enactment shall continue in force only during the continuance of the present state of war between His Britannic Majesty and His Allies and the Central European Powers and for a period of five years after the termination thereof.

Metals and ores to which Enactment applies.

2. The metals and ores to which this Enactment applies are zinc, copper, tin, lead, nickel, aluminium, and any other non-ferrous metals and ores to which this Enactment may be applied by order of the Chief Secretary to Government ; the expression " metal " shall not include metal which has been subjected to any manufacturing process except such as may be prescribed ; and the expression " ore " shall include concentrates, mattes, precipitates, and other intermediate products.

Prohibition against dealing in certain metals and ores without a license.

E. 14 of 1919.

3. (i) Notwithstanding the terms of any other written law or of any lease, license, or other authority, it shall not be lawful for any company, firm, or individual after the expiration of six months from the passing of this Enactment, or such longer period as the *Senior Warden of Mines*, Federated Malay States, (hereinafter called " the *Senior Warden* ") may generally or in any particular case allow, to carry on the business of * * smelting, dressing, refining, or dealing by way of wholesale trade in, metal or metallic ore to which this Enactment applies, unless licensed to do so by the *Senior Warden*, such license to be in the form set out in the Second Schedule to this Enactment :

Provided that the purchase or sale of metal shall not be deemed to be dealing in such metal where such purchase or sale is incidental only to the trade carried on by the purchaser or seller :

Provided also that no license shall be required when the * * smelting, dressing, refining, or dealing is carried on wholly outside the Federated Malay States.

(ii) In the case of a company, firm, or individual with respect to which or whom any of the conditions set forth in the First Schedule to this Enactment apply, or which is controlled by a company, firm, or individual in respect of which or whom any such conditions apply, no license shall be granted unless the *Senior Warden* is of opinion that the grant of a license is expedient; but, save as aforesaid, any company, firm, or individual carrying on or proposing to carry on such business as aforesaid shall on making application in the prescribed manner, and on furnishing such information and allowing inspection of such books and documents as may be reasonably required, and on payment of the prescribed fee, which shall not exceed ten dollars, be entitled to a license under this Enactment.

(iii) A license under this Enactment shall remain in force unless and until it is suspended or revoked.

(iv) The *Senior Warden*, if satisfied by evidence not before him at the time when the license was granted that such company, firm, or individual is, or has become, subject to any of the conditions set forth in the First Schedule to this Enactment, or, in the case of a company, firm, or individual to which or whom a license has been granted notwithstanding that it or he is subject to any such conditions as aforesaid, that it is expedient that the license should be revoked or suspended, may revoke or suspend the license.

(v) If any question arises between the *Senior Warden* and any company, firm, or individual—

(*a*) as to whether or not the business carried on by the company, firm, or individual is such as to require a license under this Enactment; or

(*b*) as to whether or not any of the conditions set forth in the First Schedule to this Enactment apply in respect of the company, firm, or individual; or

(*c*) as to whether or not the company, firm, or individual is controlled by a company, firm, or individual in respect of which any such conditions apply; or

(*d*) as to the requirements of the *Senir Warden* for the production of books or documents for inspection,

the question shall, subject to rules of Court, be referred by the *Senior Warden* to the Court of a Judicial Commissioner for determination, and the decision of such Court on any such reference shall be final, and no appeal therefrom shall lie to any other Court.

(vi) Where at the expiration of the said six months or longer period allowed by the *Senior Warden* proceedings on any such application are pending in the Court of a Judicial Commissioner, the Court shall, on application being made for the purpose, extend the said period of six months or longer period as respects that company, firm, or individual for such period as may be necessary to allow the question to be determined by the Court, and where the application is made with reference to the suspension or revocation of a license the license shall not be suspended or revoked until the question has been determined by the Court.

(vii) The *Senior Warden* shall publish in the prescribed manner the name of any company, firm, or individual to which or whom a license has been granted under this Enactment or whose license has been suspended or revoked.

Power to require information and inspection of documents. E. 14 of 1919.

4. The *Senior Warden* shall have power at any time to require the applicant for a license or a licensee, or any person who, being a director, partner, manager, or officer of, or the holder of, or a person interested in, shares or securities of, any company, or firm, which has applied for the grant of a license, or to which a license has been granted under this Enactment, or by which the applicant or licensee is controlled, or being the manager of the business carried on by an individual applicant or licensee, is able to give any information as to the constitution, control, or management of the company or firm, or the business carried on by the company, firm, or individual, or the beneficial interest of any person in such business or in any shares or securities of the company or firm, to furnish such information within such time as the *Senior Warden* may direct, and for the purpose of obtaining or verifying such information any person appointed by the *Senior Warden* in that behalf shall be entitled to inspect any books and documents belonging to or under the control of such company, firm, or individual, the inspection of which may reasonably be required for the purpose aforesaid.

Offences.

5. (i) If any person carries on the business of * * smelting, dressing, refining, or dealing in any metal or metallic ore in contravention of this Enactment without a license, he shall be guilty of an offence and shall, on complaint made by or on behalf of the *Senior Warden*, be liable on conviction before the Court of a Magistrate of the First Class to imprisonment of either description for a term not exceeding three months, or to a fine not exceeding eight hundred and fifty dollars for each day during which the offence continues, or to both such imprisonment and fine.

(ii) If any person

(*a*) refuses or neglects to furnish any information which under this Enactment is required to be furnished within the time within which it is to be furnished, or

(*b*) knowingly furnishes any information required to be furnished under this Enactment which is false in any material particular, or

(*c*) having custody of any book or document which a person is authorized to inspect under this Enactment refuses or wilfully neglects to produce the book or document for inspection, or

(*d*) forges or fraudulently alters or uses or permits to be fraudulently used any license issued under this Enactment,

he shall be guilty of an offence and liable on conviction before the Court of a Magistrate to imprisonment of either description for a term not exceeding three months, or to a fine not exceeding one hundred and seventy-five dollars, or to both such imprisonment and fine

(iii) Where the person guilty of an offence under this Enactment is a company, every director, manager, secretary, and other officer of the company who is knowingly a party to the default shall also be guilty of the like offence and liable to the like punishment.

Provision as to share warrants to bearer.

6. (i) A company carrying on any business to which Section 3 of this Enactment applies, which has issued share warrants to bearer, may give notice requiring the holders of the share warrants to surrender their warrants for cancellation and to have their names entered in the register.

(ii) The notice shall be given by advertisement in the *Gazette* and by any other method by which notices to, or for the information of, holders of share warrants to bearer are required to be given by the regulations of the company or the conditions of issue of the warrants.

(iii) Where such a notice has been given, no person shall, as holder of a share warrant, be entitled to attend or vote at any meeting of the company, and any dividends or interest which may become payable in respect of any shares represented by share warrants shall be retained by the company until the share warrants have been surrendered for cancellation.

(iv) For the purposes of this Enactment the expression "share warrants to bearer" includes any bearer securities which confer on the holder thereof any voting power with respect to the management of the company.

Provisions as to secrecy.

7. No information as to any person or any business obtained under this Enactment shall be published except for the purposes of legal proceedings under this Enactment, and if any person knowingly publishes any information in contravention of this provision he shall be guilty of an offence and liable on conviction before the Court of a Magistrate to imprisonment of either description for a term not exceeding three months, or to a fine not exceeding one hundred and seventy-five dollars, or to both such imprisonment and fine.

Rules.

8. (i) The Chief Secretary to Government may make rules for prescribing anything which, under this Enactment, is to be prescribed, and generally for carrying this Enactment into effect, and such rules shall provide for excluding from dealings by way of wholesale trade within the meaning of this Enactment dealings in quantities below such limits as may be prescribed generally or as respects any particular metal or metallic ore.

(ii) All rules made under this Enactment shall be published in the *Gazette* and from the date of such publication shall have the same force and effect as if they had been enacted in this Enactment.

(iii) All rules shall be laid before the Federal Council at the first meeting after such publication and shall cease to have any force or effect if disallowed by resolution of the said Council.

(iv) Any rule may be altered by a resolution of the Federal Council and shall come into force as altered from the date of the passing of such resolution and shall have the same force and effect as if it had been enacted in this Enactment.

Evidence of documents. E. 14 of 1919.

9. All documents purporting to be documents made by the *Senior Warden* under this Enactment and to be signed by him, or by any person authorized by him in that behalf, shall be received in evidence and shall be deemed to be such documents without further proof unless the contrary is shewn.

Declarations.

10. (i) A company carrying on any business to which Section 3 of this Enactment applies may give notice requiring a shareholder or debenture holder to make a declaration under the "Statutory Declarations Enactment, 1899," of any State as to the beneficial ownership of the shares or debentures standing in his name, and as to the nationality of such beneficial owner.

(ii) The notice shall be given by any method by which notices to, or for the information of, holders of shares or debentures are required to be given by the regulations of the company or the conditions of issue of the debentures.

(iii) Where such a notice has been given, no person shall as holder of a share be entitled to attend or vote at any meeting of the company, and any dividends or interest which may become payable in respect of any shares or debentures shall be retained by the company, until the shareholder or debenture holder shall have made such declaration as aforesaid.

(iv) For the purposes of this section the expressions "shares" and "debentures" include stock and debenture stock and "shareholder" and "debenture holder" have corresponding meanings.

First Schedule.

CONDITIONS.

(Section 3.)

1. That any director of the company or any partner of the firm, or the individual, or any manager or other principal officer employed by the company, firm, or individual, is a person who is or has been a subject of a State which is now at war with His Britannic Majesty or an enemy controlled corporation.

2. That, in the case of a company, any capital of the company is or was at any time after the first day of December, 1918, held by or on behalf of an enemy, including any stock or shares of the company vested in the custodian by virtue of any order made under "The Trading with the Enemy Enactments, 1914 to 1916."

3. That the company, firm, or individual is or was at any time after the first day of December, 1918, party to any agreement, arrangement, or understanding, which enables or enabled an enemy to influence the policy or conduct of the business.

4. That the company, firm, or individual is or was at any time after the first day of December, 1918, interested, directly or indirectly, to the extent of one-fifth or more of the capital, profits, or voting power in any undertaking, whether or not in the Federated Malay States, engaged in business of a kind to which this Enactment applies, in which enemies are also interested,

directly or indirectly, to the extent of one-fifth or more of the capital, profits, or voting power.

5. That the company, firm, or individual is by any means whatever subject, directly or indirectly, in the conduct of its or his business to enemy influence or association.

6. That, in the case of a company, the company has issued share warrants to bearer and has not given notice under this Enactment requiring the holders of the share warrants to surrender their warrants for cancellation.

For the purposes of this Schedule—

The expression "enemy" means a subject of a State which is now at war with His Britannic Majesty and an enemy controlled corporation.

The expression "enemy controlled corporation" means any corporation—

(*a*) where the majority of the directors or the persons occupying the position of directors, by whatever name called, are subjects of such a State as aforesaid; or

(*b*) where the majority of the voting power is in the hands of persons who are subjects of such a State as aforesaid, or who exercise their voting powers directly or indirectly on behalf of persons who are subjects of such a State as aforesaid; or

(*c*) where the control is by any means whatever in the hands of persons who are subjects of such a State as aforesaid; or

(*d*) where the executive is an enemy controlled corporation or where the majority of the executive are appointed by an enemy controlled corporation.

The expression "capital" in relation to a company means any shares or securities issued by the company which carry, or would, if the necessary formalities were complied with, carry, any voting power with respect to the management of the company, and also includes debentures and debenture stock and money lent to the company.

Second Schedule.

FORM OF LICENSE.

(Section 3.)

(*Name of company, firm, or individual*) of.....is hereby licensed under "The Non-Ferrous Metal Industry Enactment, 1918," to carry on the business of * * smelting, dressing, refining, and dealing by way of wholesale trade in the metals or metallic ores to which the said Enactment applies. E. 14 of 1919.

.....

Senior Warden of Mines, F.M.S.

Dated the.....day of....., 191...

ENACTMENT NO. 40 OF 1918.

An Enactment to consolidate and amend the law relating to the Registration of Imports and Exports.

ARTHUR YOUNG,
President of the Federal Council.

[26th December, 1918.
1st April, 1919.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as "The Registration of Imports and Exports Enactment, 1918," and shall come into force on such date as the Chief Secretary to Government may by notification in the *Gazette* appoint in that behalf.

(ii) Upon the coming into force of this Enactment the Enactments mentioned in the schedule shall be repealed ; provided that all appointments made under any Enactment hereby repealed which were in force immediately prior to the commencement of this Enactment shall be deemed to have been made under this Enactment.

Rules.

2. (i) The Chief Secretary to Government may make rules for the registration of all goods imported into and exported from the Federated Malay States or any of them and for the issue of certificates relating to goods so imported or exported.

(ii) Such rules shall be published in the *Gazette* and shall at the expiration of thirty days after such publication have the same force and effect as if contained in this Enactment.

(iii) Any person who shall commit a breach of or fail to comply with any rule so made and published, or shall wilfully make any false or misleading statement, written or verbal, with respect to any matter dealt with by this Enactment or by the rules published thereunder, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred dollars.

Appointment of Registrar.

3. The Chief Secretary to Government may, by notification in the *Gazette*, appoint, by name or office, a Registrar, or Registrars, of Imports and Exports for the purposes of this Enactment and may revoke any such appointment.

SCHEDULE.

ENACTMENTS REPEALED.

State.	No. and year.	Short title.
Perak	14 of 1904	The Registration of Imports and Exports Enactment, 1904
Selangor	13 of 1904	Do.
Negri Sembilan ..	14 of 1904	Do.
Pahang	9 of 1904	Do.

ENACTMENT NO. 42 OF 1918.

As amended by Fed. E. 13 of 1919.

An Enactment to promote the Cultivation of Foodstuffs in the Federated Malay States.

ARTHUR YOUNG,
President of the Federal Council.

[26th December, 1918.
12th February, 1919.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and duration.

1. This Enactment may be cited as "The Food Production Enactment, 1918," and shall come into force on such date as the Chief Secretary may by notification in the *Gazette* appoint, and shall thereafter remain in force until the termination of the present state of war between His Britannic Majesty and the Central European Powers and during the five years next following the termination thereof ; provided that the Chief Secretary may at any time when this Enactment is in force appoint by notification in the *Gazette* a day for the cessation of the operation thereof, and this Enactment shall in such case cease to operate accordingly and shall on and from the date so appointed be deemed to have been repealed.

Interpretation.

2. In this Enactment and in any rules made thereunder the following terms shall have the meanings hereby assigned to them respectively :

"Chief Secretary" means the Chief Secretary to Government, Federated Malay States ;

"Collector" means any Collector or Assistant Collector duly appointed under "The Land Enactment, 1911" ;

"Director" means the Director of Food Production appointed under this Enactment ;

"Deputy Director" means a Deputy Director of Food Production appointed under this Enactment, and "the Deputy Director" means the Deputy Director empowered to act in the place in which the action or thing contemplated or referred to by the context is taken or to be taken or exists ;

E. 13 of 1919.

"Foodstuff" includes rice, vegetables, maize, millet, ragi, *sweet potatoes*, *yams*, *tapioca*, coconuts, bananas, and other fruits, and all other articles used, or which can be used, as food for man and which can be grown by cultivation of the soil in the Federated Malay States ;

"Fund" means the Food Production Fund established by this Enactment ;

"Malay" means a person belonging to any Malayan race who habitually speaks the Malay language or any Malayan language and professes the Moslem religion ;

"Owner," occurring without the prefix "registered," includes the occupier of land and any person having control over or the right to make use of land and in the case of land owned by a company includes the manager or person in charge of such land ;

"Resident" means with reference to any particular piece of land, or any interest therein or duty connected therewith or matter incidental thereto, the Resident of the State wherein such land is situate ;

"Rice land" means land which is, in the opinion of the Resident, suitable for the cultivation of wet rice ;

"Sanitary Board" means a Sanitary Board appointed under the provisions of "The Sanitary Boards Enactment, 1916," and "Sanitary Board area" means an area subject to the control of a Sanitary Board in respect of the matters provided for by the said Enactment ;

"State land" and "to alienate" have the meanings assigned to those expressions, respectively, in "The Land Enactment, 1911."

Appointment of officers.

3. (i) The Chief Secretary may appoint any person by name or by office to be Director of Food Production for the Federated Malay States and may appoint persons by name or by office to be Deputy Directors of Food Production for specified local areas ; all such appointments shall be notified in the *Gazette*.

(ii) The Director may exercise his functions throughout the Federated Malay States, and Deputy Directors may exercise their functions within the local areas for which they are respectively appointed ; the Director may exercise any power vested by or under this Enactment in a Deputy Director.

(iii) The Director and all Deputy Directors shall be deemed to be public servants within the meaning of the Penal Code.

Food Production Fund.

4. All moneys collected under this Enactment shall be paid into the public Treasury of the Federated Malay States to the credit of a Fund which shall be called the Food Production Fund and out of which all payments required or authorized to be made under this Enactment shall be met. Provided that if and so often as the amount at the credit of the Fund shall be insufficient to meet any payment required or authorized to be made under this Enactment, the Chief Secretary may transfer from the general revenues of the Federated Malay States to the credit of the Fund such amount as may be necessary to meet such payments, and the amount so transferred shall, when the state of the Fund permits, be reimbursed therefrom to the general revenues of the Federated Malay States.

CULTIVATION OF RICE.

Setting apart of land suitable for wet rice cultivation.

5. (i) The Resident may, by notification in the *Gazette*, set apart any area of State land which consists principally of land suitable for cultivation with wet rice or for being rendered by irrigation or

otherwise cultivable therewith to be used principally for the cultivation of wet rice and may at pleasure rescind any such notification.

(ii) To any person to whom there is alienated for the cultivation of wet rice any land within an area set apart under sub-section (i) there may be alienated also, within the said area, land for dwelling-houses and orchards ; provided that the land alienated within any such area for dwelling-houses and orchards shall at no time exceed in extent one-fifth of the land alienated within the said area for the cultivation of wet rice.

(iii) In respect of all land, situate within an area set apart under sub-section (i), which is alienated for the express purpose of the cultivation of wet rice there shall be imposed a special condition, to be set out in the title, that the land held thereunder shall be cultivated with wet rice and with no other product and that no part thereof shall remain during three consecutive years uncultivated with wet rice. The land held under a title wherein this condition is set out shall be liable to forfeiture for breach thereof, and if any part of such land shall have remained during three consecutive years uncultivated with wet rice this shall be deemed to be a breach not capable of being repaired or made good.

Land alienated for wet rice cultivation.

6. (i) The owner of any land which has been or may hereafter be alienated for the purpose of the cultivation of wet rice or subject to a condition for the cultivation of wet rice thereon shall cultivate the whole of such land with wet rice once during each calendar year reckoned from January to December.

(ii) Land shall not be deemed to have been cultivated, within the meaning of this section, unless and until all operations necessary and proper to the production of a crop of wet rice thereon shall have been, so far as possible, completed.

Notice to prepare for planting wet rice.

7. (i) Each Deputy Director shall in each year issue and publish notices prescribing for all alienated lands within the area for which he is appointed

(*a*) the time for commencing to clear rice fields ;

(*b*) the time by which the clearing of rice fields shall be completed ;

(*c*) the time for making rice nurseries ;

(*d*) the time for planting out rice in the fields.

(ii) Such notices may further prescribe any other measures which may in the opinion of the Deputy Director be necessary in connection with the cultivation of wet rice.

(iii) Such notices shall be published in the *Gazette*, and translations in Malay shall be affixed in such convenient places as may be directed by the Deputy Director.

(iv) In case of conflict between the terms of any notice published under this section and anything proclaimed or ordered in respect of the cultivation of rice under "The Land Rules, 1904," the terms of the notice published under this section shall prevail.

(v) Any owner of rice land who fails to comply with the terms of any notice published under this section shall, in the absence of reasonable excuse, be liable to the penalty prescribed by Section 35.

Where rice land not cultivated by owner.

8. (i) If within ten days from the time prescribed under Section 7 for commencing to clear rice fields the owner of any alienated rice land does not make a *bonâ fide* commencement to clear the same or if having made a commencement he does not continuously and seriously proceed with the cultivation of such rice land, the Deputy Director may cause such rice land to be cultivated at the expense of the Government or may authorize any other person to cultivate such rice land on such terms as may be agreed upon and in either such case shall serve a notice on the owner of such rice land requiring him to permit the same to be so cultivated.

(ii) Where alienated rice land is cultivated, as provided in sub-section (i), at the expense of the Government, the resulting rice crop shall be the property of the Government, and where such rice land is cultivated by any other person authorized in that behalf under the said sub-section the resulting rice crop shall be the property of that person, and the owner of the land shall in neither case have any interest in such crop.

(iii) The Director shall cause to be paid to the owner of the said land an amount equal to the amount (if any) paid by such owner as rent or water rate thereon in respect of the period during which he is deprived of the use of such land.

(iv) Any person who interferes with the cultivation of rice land at the expense of the Government or by an authorized person, as provided in sub-section (i), or with any crop growing thereon or obstructs or attempts to obstruct any person engaged in such cultivation shall be guilty of an offence and liable on conviction to imprisonment of either description for a term not exceeding three months or to a fine not exceeding five hundred dollars or to both such imprisonment and fine.

Requisitioning labour from employers for cultivation of wet rice.

9. (i) Where the Deputy Director decides that any alienated rice land shall, under the provisions of Section 8 (i), be cultivated at the expense of the Government, he may require any person having the control of any labourers who reside ordinarily at a distance of not more than five miles, by direct measurement, from such rice land to place at the disposal of the Deputy Director a stated number of labourers for the purpose of such cultivation, and such person shall forthwith comply with such requisition ; provided that no person shall be required to place at the disposal of the Deputy Director under this section more than ten per cent. of the total number of labourers under his control who reside ordinarily within such distance as aforesaid of the rice land to be cultivated.

(ii) Wages earned by labourers whilst placed at the disposal of a Deputy Director under this section shall be paid by the Deputy Director.

(iii) Any person who omits to comply with a requisition made by a Deputy Director under this section shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred dollars

and, in addition, to a fine of twenty-five dollars for each day during which such omission continues.

Requisitioning labour of the unemployed for cultivation of wet rice.

10. (i) Where the Deputy Director decides that any alienated rice land shall, under the provisions of Section 8 (i), be cultivated at the expense of the Government, he may require any person, who is in his opinion unemployed or not fully employed, to labour on such rice land.

(ii) Persons who labour in pursuance of such requisition shall be entitled to receive from the Deputy Director wages at such rates as may be fixed from time to time by the Director after consultation with the Resident.

Proceeds of cultivation by Government.

11. The proceeds of the sale of rice harvested on alienated land cultivated at the expense of the Government under the provisions of Section 8 (i) shall be paid to the credit of the Fund.

Bonuses for diligence and energy in cultivating rice.

12. The Director, after consultation with the Resident, may grant bonuses to owners of rice lands who have shewn great diligence in cultivating the same and to Malay headmen who display exceptional energy in promoting the cultivation of rice.

Forfeiture of rice land for persistent failure to cultivate.

13. (i) If any person shall for three successive seasons fail to cultivate or to cause to be cultivated any rice land owned by him or any part thereof, the Resident may require him to shew cause why such rice land should not be forfeited to the State and may, if after such enquiry as he thinks fit he is satisfied that there was no reasonable excuse for such failure to cultivate, make, notwithstanding anything in any other Enactment contained, an order in writing under his hand declaring such rice land forfeited to the State and may dispose thereof, in such manner as he thinks fit, for cultivation.

(ii) Where the Resident makes an order of forfeiture under this section, he shall certify under his hand and official seal the terms of the order and the particulars of the document or documents of title under which the land was held, and the Registrar of Titles or Collector, as the case may be, having custody of the Register wherein the title to such land is recorded shall on production to him of such certificate record in the said Register the forfeiture effected by the order and shall file such certificate.

(iii) A copy of the order made by the Resident shall also be served on the person whose land is thereby declared forfeited, and he shall thereupon deliver up his document of title, if any, for the said land to the Collector to be cancelled.

(iv) Any person aggrieved by an order of forfeiture made by the Resident under this section may appeal to the Court of a Judicial Commissioner. For the purposes of such an appeal the procedure prescribed for appeals to the said Court from Courts of Magistrates shall, subject to necessary modifications, apply and the Resident by whom the order appealed against was made, or such public officer subordinate to the said Resident as he may appoint in that behalf, shall be the respondent. Costs payable by the respondent in any such appeal shall be defrayed from the Fund. The decision of the Court of a Judicial Commissioner shall be final and there shall be no appeal therefrom.

Meaning of "cultivation."

14. In the six last preceding sections "cultivation," with its grammatical variations and cognate expressions, means cultivation with wet rice.

CULTIVATION OF FOODSTUFFS GENERALLY.

Cultivation of other foodstuffs on land alienated for the cultivation of wet rice.

15. Notwithstanding anything contained in any written law to the contrary or the terms or conditions, expressed or implied, in any grant or Government lease or other title, the owner of land alienated for the purpose of the cultivation of wet rice may, after harvesting the rice crop, use such land or permit the same to be used for growing vegetables or other foodstuffs, provided that no foodstuffs shall be grown the growing whereof would interfere with the cultivation of one crop of wet rice annually.

Order to grow foodstuffs on land other than rice land.

E. 13 of 1919.

16. (i) The Director may by order under his hand

(*a*) require the owner of any specified land which is *or can be made* suitable for the production of foodstuffs to cultivate with foodstuffs generally, or with any particular kind or kinds of foodstuffs, such proportion of his land, not being rice land, as may be stated in the order ;

(*b*) prescribe the various kinds of foodstuffs the cultivation of any of which will amount to a compliance with an order under paragraph (*a*) to cultivate foodstuffs generally.

(ii) No owner of land shall by reason of any order made under this section to cultivate land with any foodstuff other than rice be bound to grow in any year more of such foodstuff than can be consumed as food in the course of a year by the labourers and other persons employed or resident upon his land.

(iii) *Every order made under this section shall be served in the manner prescribed by Section* 37.

(iv) *Where default is made without reasonable excuse in complying with an order duly served under this section, the Director shall report such default to the Chief Secretary to Government, who shall thereupon have the same powers as if the land in respect whereof the said default has been made were a place of employment with regard to which a report had been furnished by the Controller of Labour to the Chief Secretary to Government under Section* 221 (ii) *of "The Labour Code,* 1912," *and Sections* 221 *and* 222 *of the said Code shall apply accordingly.*

(v) Nothing in this section applies to land situate within a Sanitary Board area.

Obligation to furnish information.

E. 13 of 1919.

16A. (i) *The Director or the Deputy Director may by order under his hand served in the prescribed manner require any owner of land to furnish to him in writing true information as to*

(*a*) *the total area of land under the control or management of such owner, and where such land is held under more than one document of title the area held under each several document of title ;*

(*b*) *the total area of land under the control or management of such owner which is cultivated with rubber or coconuts ;*

(c) *the total area of land under the control or management of such owner which is cultivated with foodstuffs other than coconuts ;*

(d) *the nature of the foodstuffs with which the land under the control or management of such owner is cultivated, the area thereof which is cultivated with any one kind of such foodstuffs to the exclusion of other kinds, and the area thereof which is cultivated with mixed crops of foodstuffs including particulars as to the kinds of foodstuffs comprised in such mixed crops ;*

(e) *the number and race of the labourers employed on the land which is under the control or management of such owner.*

(ii) *Every owner of land to whom an order under this section is addressed shall furnish, within fourteen days from the date of the service of the order, to the Director or the Deputy Director, according to the tenor of the order, the information thereby required to be furnished ; and every such owner shall be deemed, for the purposes of Section* 177 *of the Penal Code, to be legally bound to furnish the said information.*

Taking over by Government of uncultivated land for growing foodstuffs.

17. (i) The Director may require any owner of land which is suitable for the production of foodstuffs and is not being cultivated to place such land at the disposal of the Government for the cultivation of rice or any other foodstuffs, and the owner thereof shall forthwith comply with such requisition.

(ii) The owner of land so placed at the disposal of the Government shall be entitled to receive from the Director such compensation as the Director considers fair.

(iii) Nothing in this section applies to land situate within a Sanitary Board area.

Requisitioning labour from employers for cultivation of foodstuffs.

18. (i) For the purpose of cultivating with foodstuffs any land placed, or required to be placed, at the disposal of the Government under Section 17 or any State land the Director may require any employer of labourers to place at the disposal of the Government a stated number of such labourers, not exceeding ten per cent. of the total number of such labourers, and the employer shall forthwith comply with such requisition.

(ii) The Director shall pay to the employer of such labourers the wages earned by them while so placed at the disposal of the Government.

(iii) Any person who omits to comply with a requisition made by the Director under this section shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred dollars and, in addition, to a fine of twenty-five dollars for each day during which such omission continues.

Requisitioning labour of the unemployed for cultivation of foodstuffs.

19. (i) The Director may require any person who is in his opinion unemployed or not fully employed to labour on any land cultivated or in course of cultivation by or on behalf of the Government for the production of foodstuffs.

(ii) Persons who labour in pursuance of such requisition shall be entitled to receive from the Director wages at such rates as may be fixed from time to time by the Director after consultation with the Resident.

Penalty for refusal of unemployed person to labour as required.

20. If any person required under Section 10 or Section 19 to labour refuses or omits without reasonable excuse to comply with such requisition, he shall be guilty of an offence and liable, on conviction, for the first offence to a fine not exceeding twenty-five dollars and for a second or subsequent offence to imprisonment of either description for a term not exceeding six months or to a fine not exceeding one hundred dollars or to both such imprisonment and fine.

General liability to compulsory labour imposed by declaration of High Commissioner.

21. (i) The High Commissioner may at any time by notification published in the *Gazette* declare that it is necessary in the public interests that all able-bodied labourers

(*a*) in the Federated Malay States, or

(*b*) in any State or States or part of any State or States,

according to the terms of the notification, be liable to be required to work under the direction of the Director at cultivation or harvesting of foodstuffs.

(ii) On and after the publication of a notification under sub-section (i) the Director or Deputy Director may, by notices publicly placarded or served upon the persons affected thereby or by otherwise notifying such persons in such manner as may be prescribed, require all or any persons within the area to which the declaration of the High Commissioner relates who are in his opinion capable of performing agricultural labour to perform such labour at such place within the said area as the Director or Deputy Director directs, and every such person so notified shall forthwith comply with the said requirement ; provided that

(*a*) no person shall be bound to travel more than three miles on any one journey in order to comply with the said requirement, unless means of transport are provided for him ;

(*b*) no Malay shall be bound to perform labour other than in connection with the cultivation or harvesting of rice.

(iii) Persons performing labour in pursuance of a requisition under this section shall be entitled to receive from the Government wages at such rates as may be fixed from time to time by the Director.

(iv) No declaration by the High Commissioner under sub-section (i) shall remain in force for a period exceeding twelve months from the date of the publication thereof ; but if at any time when such declaration is in force the High Commissioner is of opinion that the necessity continues, he may from time to time renew such declaration for another period not exceeding twelve months, and such renewal shall be published and have effect as the original declaration ; and if at any time when such declaration is in force the High Commissioner is of opinion that the said necessity has ceased, either generally or as regards any particular area or areas, he shall by notification published in the *Gazette* declare such opinion, and thereupon the obligation to labour imposed by this section shall cease either generally or as regards the particular area or areas to which the said opinion of the High Commissioner is expressed to relate, as the case may be.

(v) The High Commissioner may, if he thinks fit, delegate to the Director any of his powers under this section and may at any time revoke any such delegation.

CULTIVATION WITHIN SANITARY BOARD AREAS.

Compulsory cultivation within Sanitary Board areas.

22. (i) The Director or Deputy Director may, after consultation with the Chairman of the Sanitary Board,

(*a*) require the owner of any land suitable for the production of foodstuffs which is situate within a Sanitary Board area to cultivate such land with foodstuffs, or

(*b*) after notice to the owner and opportunity given to the owner to shew cause against the grant of a permit under this section grant to any person a written permit to occupy such land for the purpose of cultivating it with foodstuffs on such terms as may be fixed by the Director ;

provided that

(1) no person shall by virtue of any such permit be entitled to cultivate on the land occupied thereunder any plant which requires more than one year to arrive at maturity, or to erect on the said land any building other than a temporary hut for his own occupation ;

(2) any person who has occupied land by virtue of any such permit shall on the termination of his occupation be entitled to remove from the said land any building erected by him thereon and any other thing thereon which belongs to him ;

(3) no such permit shall be transferable.

(ii) Every person required under paragraph (*a*) of sub-section (i) to cultivate land shall forthwith comply with such requisition ; provided that no person shall be bound to destroy existing cultivation in order to comply therewith.

(iii) Every permit granted under this section shall be for a period not exceeding one year but may at the discretion of the Director or Deputy Director be renewed on the expiration thereof ; provided that if written notice shall have been given by the registered owner of the said land to the Director or Deputy Director that he requires the land for the purpose of building thereon and the Director or Deputy Director has no reason to doubt that such notice is given in good faith, renewal of the permit shall either be refused or if granted shall be granted for such period only as may be necessary for the removal of any growing crop.

(iv) Where renewal of a permit is refused and the person who has been in occupation of land thereunder is by reason of such refusal prevented from removing any crop from such land, such person shall be entitled to receive from the Director or Deputy Director such sum as the Director or Deputy Director thinks reasonable by way of compensation.

(v) The registered owner of any land occupied in pursuance of a permit granted under this section shall not be entitled to any rent or compensation in respect of such occupation, but the Director shall pay to him an amount equal to the amount (if any) legally payable and paid by him on account of rates imposed under the provisions of any Enactment, or of land rent, in respect of the land so occupied and relating to the period of such occupation.

Rubber not to be planted within Sanitary Board areas.

23. (i) No rubber plantation shall after the commencement of this Enactment be formed within any Sanitary Board area without the approval of the Sanitary Board given with the sanction of the Resident.

(ii) For the purposes of this section a rubber plantation shall be deemed to be formed wherever more than ten rubber plants or trees are planted in an area of one acre.

(iii) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred dollars ; and the Court before which the conviction is had shall make an order requiring the owner of the land whereon such contravention has taken place to remove therefrom or destroy such and so many of the rubber plants and trees on the said land that there shall remain not more than ten such plants and trees in any one acre thereof.

(iv) If the owner shall fail to comply with such order within seven days from the date when the same is made, the Chairman of the Sanitary Board may cause such removal or destruction of plants and trees from and on the said land to be effected as shall accord with the order and may recover the cost of such removal and destruction from the owner of the said land.

PRESERVATION OF FRUIT TREES.

Rubber not to be planted among coconut palms or fruit trees.

24. (i) No rubber plant or tree shall after the commencement of this Enactment be planted among coconut palms or other fruit trees the fruit whereof is used for, or suitable for, human consumption.

(ii) No owner of land whereon rubber plants or trees have before the commencement of this Enactment been planted among coconut palms or other fruit trees the fruit whereof is used for, or suitable for, human consumption shall destroy such coconut palms or other trees.

(iii) Any owner of land who contravenes, or permits contravention of, the provisions of this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred dollars ; and the Court before which an owner of land is convicted of contravening sub-section (i) shall make an order requiring him to remove forthwith all rubber plants and trees on his land planted in contravention of that sub-section.

VEGETABLE GARDENS AND GRAZING GROUNDS.

Setting apart of State land for growing vegetables, bananas, and sugar cane.

25. (i) In each State the Resident shall select and set apart for the cultivation of vegetables such areas of State land in or near every town and village and either within or without the Sanitary

Board area, if any, thereof as he may deem adequate to produce a sufficient supply of vegetables for the present and future population of such town or village and shall notify in the *Gazette*, with express reference to this section, the boundaries of each area so selected and set apart.

(ii) No notification under this section shall be varied or rescinded except with the approval of the Chief Secretary.

(iii) No land included within boundaries notified under this section shall, until by variation or rescission of such notification it has ceased to be included within boundaries notified under this section, be used or disposed of otherwise than for the purpose of the cultivation of vegetables, bananas, and sugar cane or be occupied for the said purpose except under a temporary occupation license in that behalf issued by the Collector under "The Land Rules, 1904," subject to such modification, if any, of the form prescribed by the said Land Rules as the Resident may direct.

(iv) No person shall on any land included within boundaries notified under this section

(*a*) plant or cultivate any coconut or other palm, fruit tree, or rubber tree or any thing other than vegetables, bananas, and sugar cane ;

(*b*) use as manure any human ordure, unless converted into poudrette ;

(*c*) erect, except with the written permission of the Collector, any building.

Setting apart of State land for grazing.

26. (i) In any State the Resident may select and set apart areas of State land near towns and villages for the purpose of grazing cattle, sheep, and goats thereon and may at pleasure annul any such selection and setting apart. The setting apart of any area under this section, and any annulment thereof, shall be notified by notices publicly placarded and in such other manner, if any, as the Resident may direct.

(ii) The Collector may issue licenses to graze cattle, sheep, and goats, on land set apart under this section and to erect buildings thereon ; provided that no such license shall authorize the erection of any building other than dairies, shelters for animals, and dwellings for persons in charge of animals.

(iii) No person shall on any land set apart under this section

(*a*) graze any animal or erect any building, except under and in accordance with a license in that behalf from the Collector ;

(*b*) keep or allow to be kept any pig.

(iv) All manure on land set apart under this section shall be the property of the Government and shall be reserved for sale, at prices to be fixed by the Director, to persons cultivating vegetables.

PURCHASE OF PADI AND ADVANCES ON CROPS.

Price for purchase of *padi* by Director.

27. (i) The Director may, with the approval of the Chief Secretary, fix, by notification in the *Gazette*, the price at which rice in the husk, commonly called *padi*, which has been grown in the

Federated Malay States, will be purchased by the Director, and all such rice tendered for sale to the Director at the price so fixed shall be purchased by the Director.

(ii) Such price may be fixed for one season's crop or for any term not exceeding five years and may be expressed to apply generally throughout the Federated Malay States or only in respect of *padi* grown in any particular State or local area.

Advances against crop.

28. (i) The Director may authorize advances of money from the Fund on the security of crops of foodstuffs.

(ii) No person who has received an advance from the Fund on the security of any crop of *padi* shall, without written permission in that behalf from the Director or a Deputy Director, dispose of such crop to any person other than the Director or a person nominated by the Director.

(iii) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to imprisonment of either description for a term not exceeding three months or to a fine not exceeding five hundred dollars or to both such imprisonment and fine.

USE OF RICE.

Power to prohibit the making of liquors from rice.

29. (i) The Chief Secretary may by order published in the *Gazette* prohibit the use of rice, or any class of rice, for the making of samshu or any other alcoholic liquor or for any purpose save food for man.

(ii) Any person who contravenes such order shall be guilty of an offence and liable on conviction to imprisonment of either description for a term not exceeding three months or to a fine not exceeding five hundred dollars or to both such imprisonment and fine.

(iii) Notwithstanding any order under sub-section (i), any person licensed by the Government to distil or manufacture any liquor from rice may, so long as such licence remains in force, use for such distillation or manufacture such class of rice as may be directed by the Chief Secretary.

ANNUAL RATE.

Annual rate imposed.

30. (i) Subject to the exemptions hereinafter provided for, an annual rate is hereby imposed on all alienated lands in the Federated Malay States for the purpose of meeting the cost of carrying out the provisions of this Enactment and shall be payable, without demand, on the dates hereinafter prescribed, by the registered owners of such lands or in any case where the registered owner cannot be found or makes default by the person, if any, in occupation or having the charge, management, or control thereof, either on his own account or as agent of another person.

(ii) The said rate shall not exceed ten cents per acre per annum and shall be fixed annually by the Director with the approval of the Chief Secretary and shall be notified in the *Gazette* and shall be payable on the 1st day of January of the year following that in respect whereof it is payable.

(iii) Except as may be otherwise provided by rule under Section 38, all amounts which shall have accrued due in respect of the said rate may be recovered in the manner provided in Part VI of "The Land Enactment, 1911," for the recovery of rent.

Exemptions from rate.

31. The rate imposed by this Enactment shall not be payable in respect of

(*a*) land cultivated, during the year whereto the rate relates, with wet rice ;

(*b*) so much of the land of any owner who has, during the year whereto the rate relates, cultivated any part of his land with rice as is equal in acreage to twice the area of the land so cultivated, provided that no rubber is planted among the rice and that the exemption is expressly claimed ;

(*c*) so much of the land of any owner who has, during the year whereto the rate relates, cultivated any part of his land with any foodstuff other than rice as is equal in acreage to the area of the land so cultivated, provided that no rubber is planted among the foodstuff and that the exemption is expressly claimed ;

(*d*) land used for any religious or educational or charitable purpose or for public recreation or for grazing cattle or sheep or goats ;

(*e*) pleasure grounds, not exceeding ten acres in area, adjoining and appurtenant to a dwelling-house ;

(*f*) land held under a document of title for an area not exceeding five acres.

ARBITRATION BOARDS.

Arbitration Boards to be constituted.

32. (i) For the purposes of this Enactment there shall be an Arbitration Board or Arbitration Boards, each consisting of not less than five or more than seven members ; the members shall be persons nominated in that behalf from time to time by the Chief Secretary, and not more than half of the members of any Board shall be salaried officers of the Government ; the Chairman of each Board shall be a member nominated by the Chief Secretary to be Chairman ; all nominations under this section shall be notified in the *Gazette*.

(ii) Members of Arbitration Boards shall ordinarily retain their membership thereof for a period of three years but shall be at liberty to resign their membership at any time.

(iii) Every such Board shall meet at such times and places as the Chairman thereof appoints ; at any meeting of a Board three members shall form a quorum.

(iv) The Chief Secretary may by notification in the *Gazette* declare the area in respect of which any Arbitration Board may exercise its functions under this Enactment ; and applications and appeals under Section 33 in respect of any matter shall lie only to the Board empowered to exercise its functions in respect of the area within which such matter arose.

(v) The decision of a Board of Arbitration on any application or appeal made or brought to it under the provisions of this section and of Section 33 shall be final and shall not be called in question in any Court.

(vi) A Board of Arbitration may in its discretion allow a reasonable sum for the costs of any appeal brought to it under the provisions of this section and of Section 33 but shall not allow any sum in respect of fees of any advocate or solicitor.

Applications and appeals to Arbitration Boards.

33. (i) Any person required to place labourers at the disposal of the Government under Section 9 or Section 18 may apply to the Arbitration Board for compensation for any loss caused to him by his being deprived of the services of such labourers, and the Board may, if satisfied that loss has been so incurred, award such compensation as to it appears reasonable.

(ii) Any person dissatisfied with the rate of wages fixed by the Director under any section of this Enactment may appeal to the Arbitration Board, and the Board may order the payment of the wages at a different rate, and the wages shall thereupon be payable at the rate ordered by the Board as from the date from which the rate fixed by the Director took, or was intended to take, effect.

(iii) Any person dissatisfied with the amount of any compensation paid to him on the estimate of the Director under this Enactment may appeal to the Arbitration Board, and the Board may award such compensation as to it appears reasonable.

OFFICIAL DECISIONS.

Finality of decisions of Director and other officials.

34. Except as otherwise expressly provided by this Enactment, the decision of the Director or Deputy Director or of any other person exercising any function under this Enactment shall be final and shall not be called in question in any Court.

GENERAL PENALTIES.

General penalty for breach of Enactment.

35. Any person offending against the provisions of any section of this Enactment for breach whereof no penalty is otherwise by this Enactment provided shall be liable, on conviction, to a fine not exceeding one hundred dollars, or, in default of the payment thereof, to imprisonment of either description for a term not exceeding two months.

Penalty for breach of rules.

36. Any person offending against the provisions of any rule made under this Enactment shall be liable, on conviction, to a fine not exceeding one hundred dollars or, in default of the payment thereof, to imprisonment of either description for a term not exceeding two months.

MISCELLANEOUS.

Service of notices and orders.

37. Subject to the provisions of any rule made under Section 38 relating to the mode of service or publication of notices, notices and orders issued and made in any State under this Enactment may be served in manner following :

(*a*) if the person on whom service is to be effected be within such State, the notice or order may be delivered to him

or left with some adult member of his family (other than a servant) residing with him within such State ;

(*b*) if the person on whom service is to be effected have an agent within such State duly authorized by power of attorney to accept service on his behalf, the notice or order may be delivered to such agent ;

(*c*) if service cannot be effected in the manner described in clause (*a*) or clause (*b*) of this section, the notice or order may be sent by registered post addressed to the person on whom service is to be effected at his residence in any part of the Federated Malay States or the Colony ;

(*d*) where service is to be effected on a corporation, the notice or order may be

(1) left at the registered office (if any) of the corporation within such State ;

(2) delivered to any director, secretary, or other principal officer of the corporation within such State or to any person within such State duly authorized by power of attorney to accept service on behalf of the corporation, or to any person having, on behalf of the corporation, powers of control or management over the land to which the notice or order relates ;

(3) sent by registered post addressed to the corporation at its principal office wherever situate ;

(*e*) if service cannot be effected in accordance with the preceding clauses of this section, the notice or order may be put up in a conspicuous position on the land to which it relates.

Rules.

38. The Chief Secretary may from time to time make rules for fully and effectually carrying out and giving effect to the various purposes, provisions, and powers in this Enactment contained, and such rules when published in the *Gazette* shall have the force of law.

Such rules may provide for

(*a*) the mode of service or publication of any notice or order issued under the provisions of this Enactment or of any rule made thereunder ;

(*b*) prescribing the powers and duties of the Director and of Deputy Directors ;

(*c*) prescribing the fees, if any, to be paid for permits or licenses under this Enactment ;

(*d*) regulating the manner of collecting amounts accrued due in respect of the rate imposed by this Enactment ;

(*e*) regulating the proceedings of Boards of Arbitration ;

(*f*) prescribing the forms to be used under this Enactment ;

(*g*) all other matters connected with the enforcement of this Enactment.

Translation of Enactment.

39. A paraphrase of the provisions of this Enactment shall be translated into Malay, Chinese, and Tamil, and copies of such

translation shall be distributed for the information of Asiatic cultivators in such manner as the Director may determine.

Provisions as to actions.

40. (i) No action shall be brought against any person for anything done or *bonâ fide* intended to be done in the exercise or supposed exercise of the powers given by this Enactment or by any rules made thereunder—

(*a*) without giving to such person one month's previous notice in writing of the intended action, and of the cause thereof ;

(*b*) after the expiration of three months from the date of the accrual of the cause of action ;

(*c*) after tender of sufficient amends.

(ii) In every action so brought it shall be expressly alleged that the defendant acted either maliciously or negligently and without reasonable or probable cause, and if, at the trial, the plaintiff shall fail to prove such allegation judgment shall be given for the defendant.

(iii) Though judgment shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Court before which the action is tried shall certify its approbation of the action.

ENACTMENT NO. 2 OF 1919.

An Enactment to empower the High Commissioner to delegate statutory powers.

ARTHUR YOUNG,
President of the Federal Council.

[8th May, 1919.
21st May, 1919.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Delegation of Powers Enactment, 1919," and shall come into force on the publication thereof in the *Gazette*.

Delegation of powers.

2. The High Commissioner may, if he thinks fit, from time to time by notification in the *Gazette* delegate to the Chief Secretary to Government, or to any officer named in the notification who holds, or is acting temporarily in, the office of Chief Secretary to Government, any power vested in the High Commissioner by any written law, and may at any time by notification in the *Gazette* revoke any such delegation.

Exercise of delegated powers.

3. Anything done, in exercise of a power delegated under Section 2, by the officer to whom such power is delegated shall have the same force and effect as if it were done by the High Commissioner.

Exercise of powers notwithstanding delegation.

4. No delegation of any power under this Enactment shall affect the exercise by the High Commissioner of such power.

ENACTMENT NO. 3 OF 1919.

An Enactment relating to Change of Names.

ARTHUR YOUNG,
President of the Federal Council.

[8th May, 1919.
21st May, 1919.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Change of Names Enactment, 1919," and shall come into force on the publication thereof in the *Gazette*.

Change of name from that used on 4th August, 1914, prohibited.

2. (i) Any person who, not being a natural born British subject or a subject of the Ruler of any of the Federated Malay States, for any purpose assumes or uses, or purports to assume or use, or continues after the first day of June, 1919, the assumption or use of, any name other than that by which he was ordinarily known on the 4th day of August, 1914, shall be guilty of an offence against this Enactment.

(ii) Where any such person as aforesaid carries on, or purports or continues to carry on, or is a member of a partnership or firm which carries on, or which purports or continues to carry on, any trade or business in any name other than that under which the trade or business was carried on on the 4th day of August, 1914, he shall for the purpose of this Enactment be deemed to be using, or purporting or continuing to use, a name other than that by which he was ordinarily known on the 4th day of August, 1914.

(iii) The Chief Secretary to Government may, if it appears desirable in any particular case, grant an exemption from the provisions of this Enactment.

(iv) For the purposes of this Enactment every Asiatic born within a State which is one of the Federated Malay States shall be deemed to be a subject of the Ruler of such State.

(v) Nothing in this Enactment shall—

(*a*) affect the assumption or use, or continued assumption or use, of any name in pursuance of a License granted by His Britannic Majesty ; or

(*b*) affect the continuance of the use, until the decision of the Chief Secretary to Government has been given, of a name in respect of which an application for exemption is made before the first day of June, 1919 ; or

(*c*) prevent the assumption or use by a married woman of her husband's name ; or

(*d*) apply to any woman who, having been born a British subject but having by marriage lost her British nationality, has been granted a certificate of naturalization as a British subject ; or

(*e*) affect the assumption or use by an Asiatic of any name assumed or used in accordance with the general practice or usage of persons of his race, class, or faith.

3. Any person guilty of an offence against this Enactment shall be liable on conviction before the Court of a Magistrate of the First Class to be sentenced by such Court to a fine not exceeding one thousand dollars or to imprisonment of either description for a term which may extend to six months or to both such fine and imprisonment. Penalty.

ENACTMENT NO. 5 OF 1919.

As amended by Fed. E, 8 of 1920.

An Enactment to repeal and re-enact with amendments Enactment No. 5 of 1909, being an Enactment to provide for the control of dealings in Cultivated Rubber.

ARTHUR YOUNG,
President of the Federal Council.

[8th May, 1919.
21st May, 1919.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as "The Rubber Dealers Enactment, 1919," and shall come into force on the publication thereof in the *Gazette*.

(ii) Upon the coming into force of this Enactment the Enactments specified in Schedule A shall be repealed ; provided that all appointments made, licenses issued, and acts of registration effected under any Enactment hereby repealed which were in force immediately prior to the commencement of this Enactment shall, so far as they are not inconsistent with the provisions of this Enactment, be deemed to have been made, issued, and effected under this Enactment.

(iii) None of the provisions of this Enactment relating to cultivated rubber shall apply to the seeds or stumps of cultivated rubber.

Interpretation.

2. In this Enactment—

"Cultivated rubber" includes the leaves, bark, latex, and any other produce of any plant or tree on alienated land yielding rubber or gutta percha in any form ;

"License" means a license under this Enactment, and "licensee" means the person to whom a license is given ;

"Licensed dealer" means a licensee holding a license to purchase cultivated rubber ;

"Licensing Officer" means the District Officer in every district, and includes in districts where there is no District Officer such person as the Resident of the State may, by notification in the *Gazette*, appoint in that behalf ;

"Treat," with its grammatical variations and cognate expressions, means to subject to any process whatsoever.

3. No person shall, unless duly licensed in that behalf, Prohibition of purchase, treatment, or storage except under license.

(*a*) purchase any cultivated rubber ;

(*b*) keep any factory or place for the purpose of treating cultivated rubber ;

(*c*) keep any house, store, shop, or place for the purpose of purchasing or storing therein any cultivated rubber other than such as has been grown or produced on land in his own occupation.

Provided that every license to purchase cultivated rubber shall include the right to keep a house, store, shop, or place for the purchase or storage thereof, and also to keep a factory or place for the treatment thereof, and that every license to keep a factory or place for the treatment of cultivated rubber shall include the right to keep a house, store, or place for the storage thereof.

4. (i) A license to store and treat cultivated rubber may be issued by the Licensing Officer upon application and payment of a fee of one dollar and shall be substantially in the form of Schedule B. Form and terms of license.

(ii) A license to purchase cultivated rubber may be issued by the Licensing Officer upon application and payment of a fee of one hundred dollars and shall be substantially in the form of Schedule C ; but no such license shall be issued until the applicant therefor shall have entered into a bond with sureties conditioned for the due performance of the obligations imposed upon a licensee by this Enactment. Every such bond shall be for such sum and in such form as the Resident of the State, with the approval of the Chief Secretary to Government, may from time to time prescribe.

(iii) Every license shall expire on the 31st day of December of the year in respect of which it is issued and shall be valid only for the place and purpose specified therein.

(iv) *No licensee shall transfer or attempt to transfer his license or authorize any other person to exercise any right or privilege under the license.* E. 8 of 1920.

Nothing in this sub-section shall apply to a bonâ fide *agent or servant performing any act authorized by the license on behalf of the licensee.*

(v) *Whenever any licensee would be liable under the provisions of this Enactment or of any rules made thereunder to any fine or forfeiture for any act, omission, neglect, or default, he shall be liable to the same fine or forfeiture for every similar act, omission, neglect, or default of any agent or servant employed by him in the course of his business as such licensee.*

Nothing in this sub-section shall be construed as relieving any such agent or servant from any fine or forfeiture to which he would otherwise be liable.

5. (i) The Licensing Officer may refuse to issue or renew a license to any person for reasons to be stated by him in writing, if so required by the applicant or licensee. Power to refuse to issue license.

(ii) The Licensing Officer may, with the approval of the Chief Secretary to Government, refuse a license to any person who is the agent of or is under any obligation or agreement to act for any individual, corporation, or combination which he is satisfied is attempting or about to attempt to secure control of the output of, or the market for, any cultivated rubber.

Power to cancel license.

6. (i) The Licensing Officer may cancel any license at any time upon the conviction of the licensee of any offence under this Enactment or on any charge involving fraudulent dealing.

(ii) If the Chief Secretary to Government, with the approval of the High Commissioner, shall certify that he is satisfied that any licensee is acting with a view to enable himself or any individual, corporation, or combination to secure control of the output of, or the market for, any cultivated rubber, it shall be the duty of the Licensing Officer, on receiving instructions in that behalf from the Chief Secretary to Government, to cancel the license of such licensee.

Duties of licensee.

7. (i) Every licensee shall keep his license posted in a conspicuous place in the building or place licensed and shall allow at all times the inspection of such building or place by the Licensing Officer or any Magistrate or any officer of the Land Department or Agricultural Department or any police officer not below the rank of Inspector.

(ii) No licensed dealer shall purchase cultivated rubber elsewhere than at the place where his license is posted, unless he purchase the same at an auction sale conducted by an auctioneer licensed under the provisions of "The Auction Sales Enactment, 1905," of the State wherein the sale is held or by a public officer acting under the order of a competent Court or by a Collector of Land Revenue in exercise of the powers vested in him by Part VI of "The Land Enactment, 1911."

(iii) Every licensee shall, on the demand of any such officer as is mentioned in sub-section (i), produce for inspection all cultivated rubber on his premises.

Entry and search.

(iv) Any such officer as aforesaid may enter any licensed place, and may search any such place if he has reason to believe that cultivated rubber is secreted therein in breach of the provisions of sub-section (iii).

Licensees' books of account.

8. (i) Every licensee shall keep books of account in which shall be entered day by day the following particulars concerning all purchases, sales, shipments, and other consignments of cultivated rubber :

(*a*) the date of purchase, sale, or consignment ;

(*b*) the name and address of the purchaser, seller, or consignee ;

(*c*) the weight and description of the cultivated rubber purchased, sold, or consigned ;

(*d*) the price, in cases of purchase or sale ;

(*e*) the number and description of the title to the land on which the cultivated rubber was grown or produced.

(ii) Every licensee shall, on the demand of any such officer as is mentioned in sub-section (i) of Section 7, produce for inspection all books kept by him under the provisions of this section and allow copies to be made thereof.

(iii) Every such book shall be preserved by the licensee for one year from the date of its last being used for the making of an entry therein.

Auctioneers' books of account.

9. (i) Every auctioneer who shall sell at an auction sale any cultivated rubber shall keep books of account in which shall be entered day by day particulars similar to those which are required by sub-section (i) of Section 8 to be entered in the books of a licensee who shall sell cultivated rubber, and the provisions of sub-sections (ii) and (iii) of Section 8 shall apply to every such auctioneer as though he were a licensee.

Auctioneer to give written authority.

(ii) Every auctioneer shall deliver to every person who shall purchase cultivated rubber at an auction sale conducted by him a written authority for the sale thereof which shall contain the particulars prescribed in Section 10.

Written authority for sale or consignment.

10. (i) No licensed dealer shall purchase any cultivated rubber except upon delivery to him by the vendor or, in the case of an auction sale held under an order of Court, by the auctioneer of a written authority for the sale thereof.

(ii) No forwarding agent shall receive any cultivated rubber except upon delivery to him by the consignor of a written authority for the despatch thereof.

(iii) The written authority prescribed by this section shall contain :

(*a*) the signature or *chop* of a licensed dealer and the number of his license, or,

(*b*) the signature or *chop* of the person in lawful occupation of the land on which the cultivated rubber was grown or produced, or of his duly authorized agent, together with the description and number of the title for such land and the number of the certificate of registration relating thereto prescribed by Section 12, or

(*c*) the signature, in the case of a sale of cultivated rubber under an order of Court, of the auctioneer by whom such sale was conducted.

(iv) Every licensed dealer and every forwarding agent who shall receive a written authority as prescribed by this section shall preserve the same and shall produce it on demand for the inspection of any such officer as is mentioned in sub-section (i) of Section 7.

Written memorandum from purchaser to vendor.

11. Every licensed dealer shall deliver to every person from whom he shall purchase any cultivated rubber a written memorandum bearing his signature or *chop* and the number of his license and setting forth—

(*a*) the date of the purchase,

(*b*) the name of the vendor, and

(*c*) the weight and description of the cultivated rubber purchased.

Such memorandum shall be preserved by the vendor and shall be produced by him on demand for the inspection of any such officer as is mentioned in sub-section (i) of Section 7.

Provided that nothing in this section shall be deemed to require the delivery of any such memorandum in the case of the purchase of cultivated rubber at an auction sale held under an order of Court or by a Collector of Land Revenue.

Cultivation of rubber to be registered.

12. (i) Every person who shall cultivate rubber on alienated land shall during the month of January in every year, or if he commences such cultivation after the commencement of this Enactment then within one month after his so commencing and thereafter during the month of January in every year, give notice of such cultivation to the officer in charge of the land office of the district in which such land is situated, and shall furnish such information with respect to the area under cultivation, the number of rubber trees thereon and otherwise as such officer may require.

(ii) The said officer shall thereupon enter in a register to be kept by him the information so furnished, making in serial order separate entries for the respective titles to the land on which rubber is so cultivated, and shall deliver to the cultivator a certificate under his hand of such registration bearing a serial number corresponding to the entry in the register ; provided that after the first registration under this section of the cultivation of rubber on any land the said officer may at his discretion in any subsequent year, instead of making a fresh entry in the said register of the cultivation of rubber on such land and issuing a fresh certificate in respect thereof, register the continued cultivation of rubber on such land by endorsement under his hand on the previous entry in the said register relating to such land and on the certificate corresponding thereto.

(iii) The certificate prescribed by this section shall be preserved by the person to whom it is delivered under sub-section (ii), and shall be produced by him on demand for the inspection of any such officer as is mentioned in sub-section (i) of Section 7.

(iv) Any person who shall contravene the provisions of sub-section (i) or sub-section (iii) shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five dollars.

Penalty for breach of Enactment.

13. Except as provided in Section 12, any person who shall commit any breach of the provisions of this Enactment shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand dollars.

Rules.

14. In any State the Resident may, with the approval of the Chief Secretary to Government, make rules, not inconsistent with the provisions of this Enactment,

(*a*) for further securing the effectual control of the sale, purchase, storage, and disposal of cultivated rubber and the prevention of fraud in connection therewith ;

(*b*) for regulating or controlling the methods of treatment of cultivated rubber ;

(*c*) for prescribing the forms of books of account ;

(*d*) generally for carrying into effect the provisions of this Enactment ;

and such rules when published in the *Gazette* shall have the force of law.

Penalty for breach of rules.

15. Any person who shall commit any breach of the provisions of any rule made under this Enactment shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred dollars, and, when the breach is a continuing one, to a further fine not exceeding ten dollars for every day during which such breach shall continue.

Forfeiture of rubber for breach of rule.

16. When a person is convicted of a breach of any rule made under this Enactment for regulating or controlling the methods of treatment of cultivated rubber, any rubber treated or in course of being treated in contravention of any such rule which may be found in the possession of such person shall, if the Court before which the conviction is had so orders, be forfeited to the Government.

Power to prohibit exportation of rubber treated in breach of rule.

17. In any State the Resident may, with the approval of the Chief Secretary to Government, prohibit by notification in the *Gazette* either generally or subject to such exceptions and qualifications, if any, as may be stated in the notification the exportation of cultivated rubber in respect of the treatment whereof there has been a breach of any rule made under this Enactment for regulating or controlling the methods of treatment of cultivated rubber.

Jurisdiction.

18. All prosecutions under this Enactment may be had before the Court of a Magistrate of the First Class, and such Court shall have power to impose any penalty provided by this Enactment.

Appeal from Licensing Officer to Resident.

19. Except in the cases referred to in Section 5(ii) and Section 6(ii), any person aggrieved by any refusal or order of a Licensing Officer under this Enactment or any rules made thereunder may appeal to the Resident of the State in which such refusal or order was given or made, and the decision of the Resident thereon shall be final ; provided that no such appeal shall be admitted after the expiration of sixty days from the date of the refusal or order appealed against.

Protection of officers.

20. (i) No action shall be brought against any person for anything done or *bonâ fide* intended to be done in the exercise or supposed exercise of the powers given by this Enactment or by any rules made thereunder—

(*a*) without giving to such person one month's previous notice in writing of the intended action and of the cause thereof ;

(*b*) after the expiration of three months from the date of the accrual of the cause of action.

(ii) In every such action it shall be expressly alleged that the defendant acted either maliciously or negligently and without reasonable or probable cause, and if at the trial the plaintiff shall fail to prove such allegation judgment shall be given for the defendant.

(iii) Though judgment be given for the plaintiff in any such action, the plaintiff shall not have costs against the defendant unless the Court before which the action is tried shall certify its approbation of the action.

SCHEDULE A.

ENACTMENTS REPEALED.

No. and year.	Short title.
5 of 1909 ..	The Federal Rubber Dealers Enactment, 1909
19 of 1916 ..	The Federal Rubber Dealers Enactment, 1909, Amendment Enactment, 1916
28 of 1916 ..	The Federal Rubber Dealers Enactment, 1909, Amendment Enactment, 1916 (No. 2)

SCHEDULE B.

"THE RUBBER DEALERS ENACTMENT, 1919."

LICENSE TO TREAT.

License is hereby given to.....of.....at.....in the District of.....to keep during the year 19.. the place hereunder specified for the purpose of storing and treating therein cultivated rubber according to the provisions of "The Rubber Dealers Enactment, 1919."

Description of place.

Fee $1.

Dated this.....day of.....19...

.....

Licensing Officer.

SCHEDULE C.

"THE RUBBER DEALERS ENACTMENT, 1919."

LICENSE TO PURCHASE.

License is hereby given to.....of.....at.....in the District of.....to purchase cultivated rubber, during the year 19.., within the following area—that is to say.....and to keep the place hereunder specified for the purpose of purchasing and storing and treating therein cultivated rubber according to the provisions of "The Rubber Dealers Enactment, 1919."

Description of place.....

Fee $100.

Dated this.....day of.....19...

.....

Licensing Officer.

ENACTMENT NO. 9 OF 1919.

An Enactment to provide for the establishment of a Bureau of Statistics and for the supply of information thereto.

ARTHUR YOUNG,
President of the Federal Council.

[8th May, 1919.
21st May, 1919.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Bureau of Statistics Enactment, 1919," and shall come into force on the publication thereof in the *Gazette*.

Establishment of a Bureau of Statistics.

2. There shall be established in the Federated Malay States an official Bureau of Statistics for the collection and preparation of statistics relating to immigration, emigration, meteorology, agriculture, mining, trade and commerce, importation, exportation, production, stock of products in possession, manufacture, transportation, and any other matters to which the Chief Secretary to Government may from time to time by notification in the *Gazette* apply the provisions of this Enactment. To all matters specified in any such notification as aforesaid this Enactment shall apply as it applies to the matters specified in this section.

Expense how borne.

3. The expenses incurred, with the approval of the Chief Secretary to Government, in the establishment and maintenance of the said Bureau of Statistics shall be defrayed from the public revenues.

Supply of Information.

4. (i) For the purpose of collecting statistics the Chief Secretary to Government may, by notification in the *Gazette*, appoint, by name or office, persons to have authority to require particulars and information to be furnished to them with reference to any matter to which this Enactment applies. Any appointment made under this sub-section may be revoked by the Chief Secretary to Government by notification in the *Gazette*.

(ii) Requisitions under this section shall be by notice in writing served upon the person or corporation to whom or which the same is addressed and shall specify the particulars or information required and, subject to the provisions of any rule made under this Enactment, may specify the form in which and the time within which they are to be furnished and may require the same to be furnished periodically at or within such time or times and in such form or forms as are specified in the notice and may specify the place or

manner at or in which the same are to be delivered; provided that no particulars or information shall be required to be furnished within a period of less than three months after the service of the notice requiring the same.

(iii) No person shall be required or bound to furnish any particulars or information other than such as are accessible to him in, or derivable by him from, business, occupation, or work, carried on in the Federated Malay States, in the conduct or supervision of which he is engaged.

Prohibition against publishing individual returns.

5. (i) No individual return of particulars or information, and no part of an individual return, furnished, and no answer to any question put, for the purposes of this Enactment shall, without the previous consent in writing of the owner for the time being of the undertaking in relation to which the return or answer was furnished or given, be published, nor, except for the purposes of a prosecution under this Enactment, shall any person not engaged in connection with the collection or preparation of statistics under this Enactment be permitted to see any such individual return or any such part of an individual return.

(ii) Every person engaged in connection with the collection or preparation of statistics under this Enactment shall be required to make a declaration in the prescribed form that he will not disclose or, except for the purposes of this Enactment, make use of the contents of any such individual return or any such part of an individual return, or any such answer as aforesaid; and any person who knowingly acts in contravention of any declaration which he has so made shall be guilty of an offence and liable on conviction to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding two thousand dollars, or to both such imprisonment and fine.

(iii) It shall be the duty of the Chief Secretary to Government, in preparing rules under this Enactment, to have due regard to the circumstances of various trades and industries, and in particular to the importance of avoiding the disclosure in any return of any trade secret or of trading profits, or of any other information the disclosure of which would be likely to tend to the prejudice of the person furnishing the return.

(iv) In any report, summary of statistics, or other publication prepared under this Enactment with reference to any trade or industry, the particulars comprised in any individual return shall not be disclosed in any manner whatever, or arranged in any way which would enable any person to identify any particulars so published as being particulars relating to any individual person or business.

(v) If any person, having possession of any information which to his knowledge has been disclosed in contravention of the provisions of this section, publishes or communicates to any other person any such information, he shall be guilty of an offence and liable on conviction to imprisonment of either description for a term not exceeding one year or to a fine not exceeding two thousand dollars or to both such imprisonment and fine.

Offences and penalties.

6. If any person required to furnish any particulars or information under this Enactment

(*a*) wilfully refuses or without lawful excuse neglects to furnish the particulars or information required within the time allowed for furnishing the same, or to furnish the same in the form specified or prescribed, or to authenticate the same in the prescribed manner, or to deliver the same at the place or in the manner specified or prescribed for the delivery thereof, or

(*b*) wilfully furnishes or causes to be furnished any false particulars or information in respect of any matter specified in the notice requiring particulars of information to be furnished, or

(*c*) refuses to answer, or wilfully gives a false answer to, any question necessary for obtaining any information or particulars required to be furnished under this Enactment,

he shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred dollars and in the case of a continuing offence to a further fine not exceeding fifty dollars for each day during which the offence continues, and in respect of false particulars, information and answers the offence shall be deemed to continue until true particulars, information or answers have been furnished or given.

Service of notices.

7. Subject to the provisions of any rule made under Section 8 relating to the mode of service of notices, notices issued under this Enactment may be served in manner following :

(*a*) if the person on whom service is to be effected be within the Federated Malay States, the notice may be delivered to him or left with some adult member of his family (other than a servant) residing with him within the said States ;

(*b*) if the person on whom service is to be effected have an agent within the Federated Malay States duly authorized by power of attorney to accept service on his behalf, the notice may be delivered to such agent ;

(*c*) if service cannot be effected in the manner described in clause (*a*) or clause (*b*) of this section, the notice may be sent by registered post addressed to the person on whom service is to be effected at his residence in any part of the Federated Malay States or the Colony ;

(*d*) where service is to be effected on a corporation, the notice or order may be

(1) left at the registered office (if any) of the corporation within the Federated Malay States ;

(2) delivered to any director, secretary, or other principal officer of the corporation within the Federated Malay States or to any person within the said States duly authorized by power of attorney to accept service on behalf of the corporation, or to any person having, on behalf of the corporation,

powers of control or management over the business, occupation, work, or matter to which the notice relates ;

(3) sent by registered post addressed to the corporation at its principal office wherever situate ;

(*e*) if service cannot be effected in accordance with the preceding clauses of this section, the notice may be put up in a conspicuous position on the land, premises, or building on or in which the business, occupation, work, or matter to which the notice relates is carried on.

Rules.

8. (i) The Chief Secretary to Government may make rules

(*a*) for regulating the establishment and control of the said Bureau of Statistics either in connection with or independently of any other public department, the staff to be employed in connection therewith, the duties to be performed, and the publications (if any) to be issued ;

(*b*) for prescribing the forms in which and the times, places, and manners at and in which particulars or information shall be furnished, and the manner in which the same shall be authenticated, and the manner in which notices shall be served, and any other thing which under this Enactment is to be prescribed ;

(*c*) for exempting from the obligation to furnish particulars or information under this Enactment, either wholly or to the prescribed extent, and either unconditionally or subject to the prescribed conditions, any persons or any prescribed class of persons ;

(*d*) generally for carrying this Enactment into effect.

(ii) All rules made under this section shall be published in the *Gazette* and from the date of such publication shall have the same force and effect as if they had been enacted in this Enactment.

(iii) All such rules shall be laid before the Federal Council at the first meeting after such publication and shall cease to have any force or effect if disallowed by resolution of the said Council.

(iv) Any rule may be altered by resolution of the Federal Council and shall come into force as altered from the date of the passing of such resolution and shall have the same force and effect as if it had been enacted in this Enactment.

ENACTMENT NO. 10 OF 1919.

An Enactment to provide temporarily against the carrying on of banking business in the Federated Malay States by certain classes of persons after the termination of the present war.

ARTHUR YOUNG,
President of the Federal Council.

[8th May, 1919.]*

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title.

1. This Enactment may be cited as "The Banking (Restriction) Enactment, 1919."

Interpretation.

2. In this Enactment—

"Chief Secretary" means the Chief Secretary to Government, Federated Malay States ;

"enemy" means any person or body of persons, of whatever nationality, resident or carrying on business in an enemy State, and includes any incorporated company or body of persons (wherever incorporated) carrying on business in an enemy State ;

"enemy-controlled corporation" means any corporation

(*a*) where the majority of the directors or the persons occupying the position of directors, by whatever name called, are enemy subjects ; or

(*b*) where it appears to the High Commissioner that the majority of the voting power or shares is in the hands of persons who are enemy subjects or who exercise their voting powers or hold the shares directly or indirectly on behalf of persons who are enemy subjects ; or

(*c*) where the control is by any means whatever in the hands of persons who are enemy subjects ; or

(*d*) where the executive is an enemy-controlled corporation or where the majority of the executive are appointed by an enemy-controlled corporation ;

"enemy State" means a State with which His Britannic Majesty is now at war ;

"enemy subject" means a subject or citizen of an enemy State and includes a body corporate constituted according to the laws of such a State ;

"enemy territory" means the territory of an enemy State.

* Published in the *Gazette* of May 21st, 1919.

Restrictions on carrying on banking businesses for the benefit of, or under the control of, enemies after the war.

3. (i) During the period of five years immediately after the termination of the present state of war between His Britannic Majesty and the Central European Powers and thereafter until the Federal Council otherwise determine no banking business shall be carried on within the Federated Malay States

(*a*) by a company which is an enemy-controlled corporation within the meaning of this Enactment; or

(*b*) by a firm or individual, if the business carried on appears to the High Commissioner to be, by reason of the enemy nationality or enemy association of that firm or individual, or of the members of that firm or any of them, or otherwise, carried on wholly or mainly for the benefit of or under the control of enemy subjects.

(ii) If any person is concerned in carrying on any such business in contravention of sub-section (i), he shall be guilty of an offence and liable

(*a*) on conviction before the Supreme Court to imprisonment of either description for a term not less than four and not more than seven years or to a fine not exceeding ten thousand dollars or to both such imprisonment and fine; or

(*b*) on summary conviction before the Court of a Magistrate of the First Class to imprisonment of either description for a term which may extend to twelve months or to a fine not exceeding five thousand dollars or to both such imprisonment and fine; and

(*c*) to forfeit the goods or money (if any) with respect to which the offence was committed.

(iii) Where it appears to the High Commissioner that any banking business is carried on in contravention of this section, the High Commissioner shall order the business to be wound up. The High Commissioner may at any time revoke or vary any such order.

Execution of order for the winding up of a business.

4. (i) Where the High Commissioner makes any order under Section 3, the Chief Secretary may at the same time or at any time subsequently appoint a controller to control and supervise the carrying out of the order and, if the case requires, to conduct the winding up of the business, and in any case where it appears expedient to the Chief Secretary, the Chief Secretary may, as occasion requires, confer on the controller such powers as are exercisable by a liquidator in a voluntary winding up of a company (including power in the name of the company, firm, or individual, or in his own name, to convey or transfer any property, and power to apply to the Supreme Court or a judge thereof to determine any question arising in the carrying out of the order), or those powers subject to such modifications, restrictions, or extensions as the Chief Secretary thinks necessary or convenient for the purpose of giving full effect to the order; and the remuneration of and costs, charges, and expenses incurred by the controller, to such amount as may be approved by the Chief Secretary, shall be defrayed out of the assets of the business and shall be charged on such assets in priority to any other charges thereon.

An official receiver may, if the Chief Secretary thinks fit, be appointed controller.

(ii) The distribution of any sums or other property resulting from the realization of any assets of the business shall be subject to the same rules as to preferential payments as are applicable to the distribution of the assets of a company which is being wound up, and those assets shall, so far as they are available for discharging unsecured debts, be applied in discharging such debts due to creditors who are not enemies in priority to the unsecured debts due to creditors who are enemies ; and any balance, after providing for the discharge of liabilities, shall be distributed amongst the persons interested therein in such manner as the Chief Secretary may direct.

(iii) Where there are assets of the business in enemy territory, the controller shall cause an estimate to be prepared of the value of those assets and also of the liabilities of the business to creditors, whether secured or unsecured, in enemy territory, and of the claims of persons in enemy territory to participate in the distribution of any balance available for distribution, and such liabilities and claims shall, for the purposes of this section, be deemed to have been satisfied out of such assets so far as they are capable of bearing them, and the balance (if any), of such liabilities and claims shall alone rank for payment out of the other assets of the business. A certificate by the controller as to the amount of such assets, liabilities, claims, and balance shall be conclusive for the purpose of determining the sums available for discharging the other liabilities and for distribution amongst other persons claiming to be interested in the business :

Provided that nothing in this provision shall affect the rights of creditors of and other persons interested in the business against the assets of the business in enemy territory.

(iv) The Chief Secretary may, on application for the purpose being made by a controller appointed under this section, after considering the application and any objection which may be made by any person who appears to him to be interested, grant him a release ; and an order of the Chief Secretary releasing the controller shall discharge him from all liability in respect of any act done or default made by him in the exercise and performance of his powers and duties as controller, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(v) Where an order under Section 3 has been made as respects the business carried on by any company, firm, or individual, no petition for the winding up of such company, or insolvency application or bankruptcy petition against such firm or individual, shall be presented, or resolution for the winding up of such company passed, or steps for the enforcement of the rights of any creditors of the company, firm, or individual taken, without the consent of the Chief Secretary, but the Chief Secretary may present a petition for the winding up of the company by the Court, and the making of an order under Section 3 shall be a ground on which the company may be wound up by the Court.

(vi) Notice of the making of an order under Section 3 requiring any business to be wound up shall be published in the *Gazette*.

Power to order winding up of companies of enemy nationality or association.

5. In any case where the High Commissioner makes an order under this Enactment requiring the business of a company to be wound up, the High Commissioner may make an order requiring the company to be wound up and thereupon the Chief Secretary may appoint a liquidator to conduct the winding up ; and on the making of such an order the company shall be wound up as if it had on the date of the order passed a special resolution for voluntary winding up and had appointed as liquidator the person named as liquidator in the order ; and the provisions of "The Companies Enactment, 1917," shall apply accordingly subject to the modifications set forth in the Schedule to this Enactment.

Provisions as to dissolution of companies.

6. (i) On or at any time after the release of a controller appointed under Section 4 or a liquidator appointed to conduct a winding up under Section 5 notice thereof may be given by the Chief Secretary to the Registrar of Companies, and on the receipt of such notice the registrar shall forthwith register it, and may if so directed by the Chief Secretary strike the name of the company off the register and the company shall be dissolved.

(ii) Where a company has been dissolved by virtue of this section, or where a company with respect to which an order has been made under Section 3 has been removed from the register under Section 254 of "The Companies Enactment, 1917," no application for an order declaring the dissolution void or restoring the company to the register shall be made without the consent of the Chief Secretary, and the Registrar of Companies may refuse to register any company with a name the same as or similar to that of the company so dissolved.

Provisions as to winding up by order of the Court.

7. Where the Court in pursuance of sub-section (v) of Section 4 makes an order for the winding up of a company with respect to which an order has been made by the High Commissioner under Section 3,

(*a*) the Court may by the winding-up order or any subsequent order dispense with compliance with the provisions of Section 168 of "The Companies Enactment, 1917," (which relates to the statement of the company's affairs,) and of Section 173 of that Enactment (which relates to meetings of creditors and contributories) or of either of those sections ;

(*b*) the provisions of sub-section (ii) of Section 4, giving priority to unsecured creditors who are not enemies, and the provisions of sub-section (iii) of the same section, which relates to the allocation of property in enemy territory to the satisfaction of liabilities to and claims of persons in enemy territory, shall with the necessary adaptations apply to the winding up of the company ;

(*c*) the assets of the company may be distributed without making any provision for claims by enemies except those which are disclosed in the books of the company or of which the liquidator has otherwise received notice.

Claims against businesses or companies being wound up.

8. (i) Where an order has been made under Section 3 requiring a business to be wound up, or an order under Section 5 has been made for the winding up of a company, any claim against or in respect of the assets of the business, or, as the case may be, any claim against the company, may be dealt with by the Supreme Court or a judge thereof upon application made either by the controller or liquidator, as the case may be, or with the consent of the Chief Secretary by the claimant ;

Provided that notice of the application if made by the controller or liquidator shall be served on the claimant, and if made by the claimant shall be served on the controller or liquidator, as the case may be.

(ii) Where any such order has been made, any action or other legal proceedings against the company, firm, or individual whose business is being wound up, or, as the case may be, against the company which is being wound up, may, on the application of the controller or liquidator, be stayed by the Court in which the proceedings are pending.

Inspection of books to ascertain any contravention of this Enactment.

9. (i) Where during the period mentioned in Section 3 it is suspected that any contravention of the provisions of this Enactment has been or is likely to be committed by any company, firm, or individual, or it is desired to ascertain whether any such contravention has been or is being committed, the Chief Secretary may by written order authorize any person named therein to inspect the books and documents belonging to or under the control of such company, firm, or individual, and such person may inspect accordingly.

(ii) Anyone who, having the control of or access to the books or documents of such company, firm, or individual, fails or neglects to produce such books or documents shall be guilty of an offence and liable, on conviction, to imprisonment of either description for a term which may extend to twelve months or to a fine not exceeding five hundred dollars or to both such imprisonment and fine.

Proceedings as to obtaining information.

10. Where the Chief Secretary is desirous of obtaining information as to the character of a business which is being carried on in the Federated Malay States and ascertaining whether such business is one to which this Enactment applies, the Supreme Court or a judge thereof may, upon application by the Chief Secretary, make an order directing any person to appear as a witness before such person or persons as the Chief Secretary appoints in that behalf and to give evidence on oath before such person or persons and to produce any documents which the Supreme Court or the judge may think proper.

Rules.

11. (i) The Chief Secretary may make rules defining what business is, for the purpose of Section 3, to be deemed banking business.

(ii) All rules under this section shall be published in the *Gazette* and from the date of such publication shall have the same force and effect as if they had been enacted in this Enactment.

(iii) All rules shall be laid before the Federal Council at its first meeting after such publication and shall cease to have any force or effect if disallowed by resolution of the said Council.

(iv) Any rule may be altered by a resolution of the Federal Council and shall come into force as altered from the date of the passing of such resolution and shall have the same force and effect as if it had been enacted in this Enactment.

SCHEDULE.

(Section 5.)

Modifications of " The Companies Enactment, 1917," as applied to the winding up of Companies under Orders by the High Commissioner :

(*a*) The Chief Secretary may remove a liquidator and fill any vacancy in the office of liquidator caused by death, resignation, or otherwise ;

(*b*) The remuneration of the liquidator shall be fixed by the Chief Secretary ;

(*c*) Sections 207, 208, 209, 210, 211, 212, sub-section (ii) of Section 219, and Sections 220, 222, 224, and 246 shall not apply ;

(*d*) In paragraph (*b*) of sub-section (i) of Section 244 (relating to the disposal of books and papers) for the words " in such way as the company by extraordinary resolution directs " there shall be substituted " in such way as the Chief Secretary may direct " ;

(*e*) The Chief Secretary may confer on the liquidator the like power as to conveying or transferring property as he is by sub-section (i) of Section 4 of this Enactment authorized to confer on a controller appointed under that section ;

(*f*) The provisions of sub-section (ii) of Section 4 of this Enactment giving priority to unsecured creditors who are not enemies, and the provisions of sub-section (iii) of the same section which relate to the allocation of property in enemy territory to the satisfaction of liabilities to and claims of persons in enemy territory, and the provisions of paragraph (*c*) of Section 7 of this Enactment, shall, with the necessary adaptations, apply to the winding up of the company ;

(*g*) The provisions of sub-section (iv) of Section 4 of this Enactment as to the release of a controller appointed under that section shall apply to the release of the liquidator ;

(*h*) An application for the stay of proceedings in the winding up shall not be made without the consent of the Chief Secretary ;

(*i*) The liquidator shall submit accounts to the Chief Secretary at such times and in such manner as he may direct ;

(*j*) The provisions of sub-section (v) of Section 4 of this Enactment, including the power of the Chief Secretary to present a petition for the winding up of the company by the Court, shall continue to apply in respect of the company, notwithstanding the making of an order under Section 5 of this Enactment.

ENACTMENT NO. 12 OF 1919.

An Enactment to provide for the grant of relief in cases of Usurious Loans.

ARTHUR YOUNG,
President of the Federal Council.

[8th May, 1919.
1st July, 1919.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Usurious Loans Enactment, 1919," and shall come into force on the first day of July, 1919.

Interpretation.

2. In this Enactment, unless there is anything repugnant in the subject or context,

"Interest" means rate of interest and includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise ;

"Loan" means a loan whether of money or in kind, and includes any transaction which is, in the opinion of the Court, in substance a loan ;

"Proceeding to which this Enactment applies" means

(*a*) any suit for the recovery of a loan made after the commencement of this Enactment, or

(*b*) any suit for the enforcement or redemption of any security taken or any agreement, whether by way of settlement of account or otherwise, made after the commencement of this Enactment in respect of any loan made either before or after the commencement of this Enactment, or

(*c*) any application to the Court by a chargee of land for an order for the sale of such land upon default being made in the observance of the terms of a charge executed after the commencement of this Enactment.

"Court" includes a Collector exercising jurisdiction under the provisions of "The Land Enactment, 1911," or "The Mining Enactment, 1911," in respect of an application by a chargee of land for an order for the sale of such land.

Re-opening of transactions and grant of relief where interest is excessive and transaction unfair.

3. (i) Where, in any proceeding to which this Enactment applies, whether heard *ex parte* or otherwise, the Court has reason to believe

(*a*) that the interest is excessive, and

(*b*) that the transaction was, as between the parties thereto, substantially unfair,

the Court may exercise all or any of the following powers, namely, may.

(1) re-open the transaction, take an account between the parties, and relieve the debtor of all liability in respect of any excessive interest ;

(2) notwithstanding any agreement, purporting to close previous dealings and to create a new obligation, re-open any account already taken between them and relieve the debtor of all liability in respect of any excessive interest, and if any thing has been paid or allowed in account in respect of such liability, order the creditor to repay any sum which it considers to be repayable in respect thereof ;

(3) set aside, either wholly or in part, or revise or alter any security given or agreement made in respect of any loan, and, if the creditor has parted with the security, order him to indemnify the debtor in such manner and to such extent as it may deem just ;

Provided that in the exercise of these powers the Court shall not

(*a*) re-open any agreement, purporting to close previous dealings and to create a new obligation, which has been entered into by the parties, or any persons from whom they claim, at a date more than six years from the date of the transaction ;

(*b*) do anything which affects any decree of a Court.

Explanation.—In the case of a suit brought on a series of transactions the expression "the transaction" means, for the purpose of proviso (*a*), the first of such transactions.

(ii) (*a*) In this section " excessive " means in excess of that which the Court deems to be reasonable, having regard to the risk incurred as it appeared, or must be taken to have appeared, to the creditor at the date of the loan.

(*b*) In considering whether interest is excessive under this section the Court shall take into account any amounts charged or paid, whether in money or in kind, for expenses, inquiries, fines, bonuses, premia, renewals or any other charges, and if compound interest is charged the periods at which it is calculated, and the total advantage which may reasonably be taken to have been expected from the transaction.

(*c*) In considering the question of risk, the Court shall take into account the presence or absence of security and the value thereof, the financial condition of the debtor and the result of any previous transactions of the debtor, by way of loan, so far as the same were known, or must be taken to have been known, to the creditor.

(*d*) In considering whether a transaction was substantially unfair, the Court shall take into account all circumstances materially affecting the relations of the parties at the time of the loan so far as the same were known, or must be taken to have been known, to the creditor.

Explanation.—Interest may of itself be sufficient evidence that a transaction was substantially unfair.

(iii) This section shall apply to any suit, whatever its form may be, if such suit is substantially one for the recovery of a loan or for the enforcement of any agreement or security in respect of a loan.

(iv) Nothing in this section shall affect the rights of any transferee for value who satisfies the Court that the transfer to him was *bonâ fide* and that he had at the time of such transfer no notice of any fact which would have entitled the debtor as against the lender to relief under this section.

(v) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any Court.

Revision of orders of Collector.

4. (i) Where in any State any power conferred by this Enactment has been exercised, or exercise thereof has been refused, by a Collector adjudicating under the provisions of "The Land Enactment, 1911," upon an application by a chargee of land for an order for the sale of such land, the Resident of such State may call for and examine the record of the proceedings before the Collector and may alter or annul anything done or ordered, or purporting to be done or ordered, by the Collector in the exercise of such power as aforesaid and may do or order anything which might have been done or ordered by the Collector under the provisions of this Enactment; provided that no power vested by this section in the Resident shall be exercised to the prejudice of any person unless such person has had an opportunity of being heard, either personally or by agent, before the Resident.

(ii) Any order or direction of the Resident made or given under the provisions of this section shall be final, and there shall be no appeal therefrom.

(iii) No suit for revision of any order, direction, or decision of a Collector made or given, or purporting to be made or given, in the exercise of powers conferred by this Enactment, or refusing to exercise the said powers, shall be brought in any Court.

Powers in insolvency and bankruptcy proceedings.

5. On any application relating to the admission of a proof of a loan, or the amount thereof, in any insolvency or bankruptcy proceedings, the Court may exercise the like powers as may be exercised under Section 3 by a Court in a proceeding to which this Enactment applies.

ENACTMENT NO. 15 OF 1919.

An Enactment for the continuance of certain regulations and powers created under and by the Public Emergency Enactment, 1917.

E. L. Brockman, *President of the Federal Council.* [25th July, 1919.]

It is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Continuance of Powers Enactment, 1919," and shall come into force on the date which His Britannic Majesty by Order in Council declares, under the Termination of the Present War (Definition) Act, 1918, to be the date to be treated as the date of the termination of the war.

Prior regulations maintained ; new ones may be made.

2. (i) Until "The Public Emergency Enactment, 1917," ceases to be in force,

(*a*) all regulations made under Section 20 thereof which were in force immediately prior to the commencement of this Enactment shall, except in so far as they may be varied or rescinded by the High Commissioner, remain in force ;

(*b*) any such regulations may be rescinded by the High Commissioner ;

(*c*) the High Commissioner may make regulations with regard to all matters coming within the classes of subjects enumerated in paragraphs I, V, and VI of sub-section (i) of the said Section 20, and may vary any regulations made under the said Section 20 which relate to any of the said matters ; no variation of any such regulation shall, except as may be thereby expressly directed, affect the penalty prescribed for any offence against such regulation.

(ii) Except as may be otherwise provided in any regulations which remain in force by virtue of sub-section (i), any person who commits an offence against any regulation in force under this section shall be liable on conviction before the Court of a Magistrate of the First Class to imprisonment of either description for a term not exceeding six months or to a fine not exceeding one thousand dollars or to both such imprisonment and fine.

(iii) For the purpose of the trial of a person for an offence against any regulation in force under this section, the offence shall be deemed to have been committed either at the place in which the

same actually was committed or in any place in which the offender may be.

(iv) Any provision of any law of the Federated Malay States which may be inconsistent with any regulation maintained in force or made by the High Commissioner under this section shall be suspended and of no effect during the continuance of such regulation.

(v) All regulations made under this section shall be published in the *Gazette*.

Liability of employer for breach of regulation by employee.

3. Whenever it is proved that a breach of the provisions of any regulation in force under Section 2 which relates to trading, exportation, importation, production, or manufacture has been committed by a person employed by a trader, exporter, importer, producer, or manufacturer, such trader, exporter, importer, producer, or manufacturer shall be held to be liable for such breach and to the penalty provided therefor unless he prove to the satisfaction of the Court before which the proceedings are had that the same was committed without his knowledge or consent and that he had taken all reasonable steps to ensure due compliance with the provisions of such regulation; provided that nothing in this section contained shall exempt any person employed by such trader, exporter, importer, producer, or manufacturer from liability to the penalty provided for any breach of the provisions of such regulation proved to have been committed by such person.

ENACTMENT NO. 20 OF 1919.

An Enactment to regulate the admission of former enemy aliens into the Federated Malay States.

E. L. Brockman,
President of the Federal Council.

[2nd September, 1919.
2nd September, 1919.]

It is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and duration.

1. This Enactment may be cited as "The Former Enemy Aliens Admission Enactment, 1919," and shall come into force on such date as the Chief Secretary to Government (hereinafter called the Chief Secretary) may by notification in the *Gazette* appoint, and shall remain in force for a period of three years.

Interpretation.

2. In this Enactment the expression "former enemy alien" means a person who is a citizen or subject of a State with which His Britannic Majesty was at any time during the year 1918 at war.

Permit to enter the Federated Malay States.

3. No former enemy alien shall enter the Federated Malay States unless he has first obtained a permit in that behalf signed by the Chief Secretary.

Penalties.

4. Any former enemy alien who enters the Federated Malay States without such permit or remains in the Federated Malay States after the expiration or revocation of such permit may

(*a*) be forthwith removed from the Federated Malay States by order of the Chief Secretary ;

(*b*) be prosecuted, with the previous sanction in writing of the Chief Secretary, and on conviction before the Court of a Magistrate of the First Class shall be liable to be sentenced by such Court to a fine not exceeding two thousand dollars or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment ;

(*c*) on the payment of such fine or where a term of imprisonment is imposed on the expiration of such term of imprisonment, if this Enactment is still in force, be removed from the Federated Malay States by order of the Chief Secretary.

Aiding and abetting.

5. Any person who aids or abets the entrance into the Federated Malay States of a former enemy alien without such permit, or harbours a former enemy alien knowing or having reason to believe that he has entered the Federated Malay States without such permit or that his permit has expired or has been revoked, shall be liable

on conviction before the Court of a Magistrate of the First Class to be sentenced by such Court to a fine not exceeding one thousand dollars or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment.

6. (i) The Chief Secretary may make regulations for any of the following purposes : Regulations.

(*a*) to prescribe the form of permit ;

(*b*) to prescribe the conditions under which permits may be issued, renewed, or revoked and the period for which they may remain in force ;

(*c*) to prescribe the method of determining in doubtful circumstances whether any person is or is not a former enemy alien ;

(*d*) to fix the fees chargeable for the issue or renewal of permits ;

(*e*) generally to carry into effect the purposes of this Enactment.

(ii) Such regulations shall come into force upon publication in the *Gazette*.

ENACTMENT NO. 26 OF 1919.

An Enactment to repeal and re-enact, with amendments, the law relating to the Registration of Bills of Sale.

F. S. JAMES,
President of the Federal Council.

[12th December, 1919.
1st February, 1920.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as "The Bills of Sale Enactment, 1919," and shall come into force on the 1st day of February, 1920.

(ii) Upon the coming into force of this Enactment the Enactments specified in the first schedule shall be repealed; provided that every registration and renewal of registration and transfer effected under any Enactment hereby repealed which was in force and valid immediately prior to the commencement of this Enactment shall, so far as is not inconsistent with the provisions of this Enactment, be deemed to have been effected under this Enactment.

Interpretation.

2. In this Enactment

"Bill of sale" means any document purporting to give to any person other than the owner any lien or security for value received over any movable property, whether the assignment of the same be absolute or conditional and whether the same remain in the hands of the owner or otherwise during the continuation of such lien or security;

"Magistrate" means a Magistrate of the First Class.

Bill of sale to have schedule of property attached thereto.

3. Every bill of sale made after the commencement of this Enactment shall have annexed thereto or written thereon a schedule containing an inventory of the movable property comprised in the bill of sale; and such bill of sale, save as in Section 5 mentioned, shall have effect only in respect of the movable property specified in the said schedule and shall be void in respect of any movable property not so specified.

Bill of sale not to affect after-acquired property.

4. Save as in Section 5 mentioned, a bill of sale made after the commencement of this Enactment shall be void in respect of any movable property specified in the schedule thereto of which the grantor was not the true owner at the time of the execution of the bill of sale.

Exception as to certain things.

5. Nothing contained in Section 3 or Section 4 shall render a bill of sale void in respect of any plant or trade machinery where such plant or trade machinery is used in or brought upon any

land, factory, workshop, shop, house, warehouse, or other place in substitution for any of the like plant or trade machinery specified in the schedule to such bill of sale.

Consideration to be set forth.

6. Every bill of sale made after the commencement of this Enactment shall truly set forth the consideration for which it was given; otherwise such bill of sale shall be void in respect of the property scheduled therein.

ILLUSTRATIONS.

(*a*) A, being indebted to B, gives him a bill of sale to secure $1,000, which on accounts between them being stated is found to be the balance due to B. The bill of sale recites that B has agreed to lend A $1,000, and the consideration for such bill of sale is stated therein to be $1,000 now paid by B to A.

The bill of sale is not void under this section, as both the legal effect and the mercantile and business effect of the transaction are as if there had been an actual advance in money of the $1,000 and consequently the consideration is truly stated.

(*b*) Upon a sale of furniture by A to B for $600 B pays to A $100 and gives him a bill of sale for $500 to secure the balance. The bill of sale is expressed to be in consideration of $500 "now paid to B."

The consideration is sufficiently described for the purposes of this section.

(*c*) A bill of sale expresses the consideration for it to be a sum of money "now due and owing." In fact the consideration consists in part of a present advance and in part of an old debt.

The bill of sale is void under this section as not truly setting out the consideration, repayment of the present advance not becoming due until the future date specified in the bill.

(*d*) The consideration for a bill of sale is stated to be the payment of a sum of money by the grantee to the grantor. Part only of such sum was in fact paid over, the remainder being retained by the grantee in satisfaction of the amounts of acceptances which had been given by the grantor to the grantee and were not mature, an agreed sum for future hire by the grantor of furniture from the grantee, and an agreed sum for expenses.

The bill of sale is void under this section, because none of the amounts so retained can truly, i.e., with substantial accuracy having regard to the real facts, be said to have been paid to the grantor, and therefore the consideration is not truly stated.

Form of bill of sale.

7. Every bill of sale made after the commencement of this Enactment shall be void unless made substantially in accordance with the form A in the second schedule.

ILLUSTRATIONS.

(*a*) A bill of sale does not contain the address and description of the attesting witness, or contains the address but not the description of such witness.

In either case it is void under this section, because the omission constitutes a departure—and not a merely immaterial departure—from the statutory form.

(*b*) A bill of sale provides that the sum advanced, together with $150 for agreed interest and bonus thereon, making in all $1,300, shall be paid by monthly instalments of $100.

The bill of sale is void, as substantially deviating from the statutory form, because the interest has been capitalized, the rate of interest is not stated, and as the bill of sale does not state how much of the $150 is bonus and how much is interest it is impossible to tell from its terms what is to be paid for interest.

(*c*) A bill of sale contains an assignment of the chattels specified in the schedule thereto annexed "together with all other chattels and things, the property of the mortgagor, now in or about the premises, and also all chattels

and things which may, at any time during the continuance of this security, be in or about the same or any other premises of the mortgagor, whether brought there in substitution for, or renewal of, or in addition to the chattels and things hereby assigned."

The bill of sale is void under this section, as departing from the legal effect of the statutory form, inasmuch as it assigns goods other than those specified in the schedule and contains no stipulation as to such other goods being for the maintenance of the security.

(*d*) By a bill of sale the grantor assigns to the grantee the chattels and things specified in the schedule thereto, and also all chattels and things which may at any time during the continuance of the security be substituted for them or any of them. The bill of sale contains a covenant by the grantor that he will during the continuance of the security replace such of the chattels and things expressed to be assigned as should be worn out by other articles of value equal to the present value of the articles worn out, so as at all times to keep up the total value of the chattels and things comprised in the security to the present value.

The bill of sale is valid, because the assignment of substituted chattels and things applies only to chattels and things substituted under the covenant for the maintenance of the security.

Bills of sale to be in duplicate and registered.

8. (i) Every bill of sale shall be in duplicate and shall be registered in the manner following in the Court of a Magistrate within the local limits of which, as defined under, or otherwise recognized by, "The Civil Procedure Code, 1918," the property assigned by the bill of sale is at the time of registration situate.

(ii) The original and duplicate bill of sale, after being completed except for execution and attestation and after being stamped in accordance with the law for the time being in force relating to stamp-duties, shall be brought by the parties concerned, or their duly authorized agents, before the presiding Magistrate of the Court, who shall compare the documents and witness the signature of the borrower, or his agent, to be made in his presence to both the original and duplicate.

(iii) If the Magistrate is of opinion that the property scheduled in any bill of sale is not sufficiently described therein, he shall refuse to register the same until such further particulars shall have been added as may be sufficient to clearly identify the property scheduled, and may, if it appears to him necessary or expedient for such clear identification, require or cause the property to be marked or branded with some permanent mark but in such manner as not to injure or disfigure the same. All things required by the Magistrate to be added or done under the provisions of this sub-section shall be added or done within seven days after the bringing of the bill of sale before the Magistrate under the provisions of sub-section (ii).

(iv) When the requirements of sub-sections (ii) and (iii) have been complied with, the Magistrate shall file the duplicate bill of sale in the Court, and thereafter the security thereunder shall, subject to the provisions of Section 13, be deemed to hold good until discharged in one of the manners in Section 9 referred to.

Manner of discharge.

9. Bills of sale may be discharged—

(*a*) by an acknowledgment, signed by the lender or his duly authorized agent upon the back of the original bill of sale and attested by a Magistrate, that the money secured has been duly received or that the obligation has otherwise been duly met;

(*b*) by the seizure and sale of the property scheduled in the bill of sale by order of a competent Court made upon the hearing of a summons to the maker of the bill of sale to show cause against such seizure and sale ;

(*c*) on such other terms as a competent Court may consider to meet the justice of the case.

Procedure on discharge.

10. When a bill of sale has been duly discharged by any of the above-mentioned methods, it shall be the duty of the presiding Magistrate of the Court wherein the bill of sale is registered to write the word "discharged," with his signature and official title, across the face of both the original and the duplicate bill of sale (the original being brought to him for the purpose) and to file both the original and the duplicate in the Court.

Procedure on payment of instalment.

11. When any part-payment is made in respect of money secured by a bill of sale, a written acknowledgment of the same shall be signed by the lender, or his duly authorized agent, upon the back of the original and duplicate bill of sale, and such signature shall be attested by a Magistrate.

Stamp-duty on receipts.

12. No receipt given for any payment or part-payment under this Enactment shall be exempt from stamp-duty by reason of being endorsed on the bill of sale ; but where a receipt is given in duplicate under Section 11 and the one which is endorsed upon the original bill of sale is duly stamped, that which is endorsed upon the duplicate bill of sale shall be exempt from stamp-duty.

Renewal of registration.

13. (i) The registration of every bill of sale must be renewed at least once in every twelve calendar months, and if a period of twelve calendar months elapses from the date of registration or last renewed registration of a bill of sale without a renewal or further renewal (as the case may be) the bill of sale shall become void.

(ii) The renewal of registration shall be effected by filing in the Court in which the bill of sale is registered a declaration in the form B in the second schedule, which shall be attached to the duplicate bill of sale filed in the Court.

Transfer.

14. Transfer of a registered bill of sale shall be effected by filing in the Court in which the bill of sale is registered a declaration in the form C in the second schedule, and such transfer shall be duly recorded in the Court.

Office copies and extracts.

15. Any person shall be entitled to have an office copy of, or extract from, any registered bill of sale or filed declaration of renewal or transfer upon payment for the same at the rate of twenty-five cents for every folio of one hundred words, and such copy shall be *primâ facie* evidence of the original and of the fact and date of registration or filing as shewn therein.

Search.

16. Any person shall be entitled to search the file of existing securities upon payment of a search fee of twenty-five cents for each document searched for.

Filing fee.

17. A filing fee of one dollar shall be payable in every case of registration, renewal of registration, or transfer, of a bill of sale.

Bill of sale not admissible in evidence unless registered.

18. No bill of sale shall be admissible in evidence or be deemed to be valid in any Court unless duly registered in accordance with the provisions of this Enactment.

Rectification by order of Judicial Commissioner.

19. Notwithstanding anything hereinbefore contained, a Judicial Commissioner, on being satisfied that the omission to register a bill of sale or to renew the registration thereof within the prescribed time or to file a declaration of transfer in the prescribed form was accidental or due to inadvertence or to absence from the Federated Malay States, may, in his discretion, order such omission to be rectified on such terms and conditions (if any) as to security, notice by advertisement or otherwise, or as to any other matter, as he may think fit to direct.

Penalty for interference with mark.

20. Any person who shall wilfully obliterate, deface, alter, or counterfeit any mark or brand placed upon any property under the provisions of Section 8 (iii) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred dollars.

Exercise of powers of Magistrate by persons specially appointed.

21. In any State the Resident may by notification in the *Gazette* appoint any person, either by name or office, to exercise and perform in any place all or any of the powers and duties conferred and imposed by this Enactment on a Magistrate and may at any time in like manner revoke any such appointment. While any such appointment remains in force, any act or thing done by the person appointed which he is empowered by such appointment to do shall have the same force and effect as if the same had been done by a Magistrate.

Debentures to which Enactment does not apply.

22. Nothing in this Enactment shall apply to any debentures issued by any mortgage, loan, or other incorporated company, and secured upon the capital, stock, or goods and effects of such company.

First Schedule.

ENACTMENTS REPEALED.

State.	No. and year.	Short title.
Perak ..	12 of 1900	The Bills of Sale Enactment, 1900
Selangor ..	16 of 1900	Do.
Negri Sembilan	14 of 1900	Do.
Pahang ..	4 of 1901	The Bills of Sale Enactment, 1901
Perak ..	3 of 1901	The Bills of Sale Enactment, 1900, Amendment Enactment, 1901
Selangor ..	4 of 1901	Do.
Negri Sembilan	4 of 1901	Do.
Pahang ..	13 of 1901	The Bills of Sale Enactment, 1901, Amendment Enactment, 1901

Second Schedule.

Form A.

BILL OF SALE.

These Presents made the.....day of....., 19.., between A. B. of.....of the one part and C. D. of..... of the other part, witness that in consideration of the sum of.....dollars now paid to A. B. by

C. D., the receipt of which the said A. B. hereby acknowledges [*or whatever else the consideration may be*], he the said A. B., doth hereby assign unto C. D., his executors, administrators, and assigns, all and singular the several chattels and things specified in the schedule hereto annexed by way of security for the payment of the sum of .....dollars, and interest thereon [*if interest is payable*] at the rate of.....per cent. per annum [*or whatever else may be the rate*]. And the said A. B. doth further agree and declare that he will duly pay to the said C. D. the principal sum aforesaid, together with [*if interest is payable*] the interest then due, by equal.....payments of.....dollars on the.....day of..... [*or whatever else may be the stipulated times or time of payment*]. And the said A. B. doth also agree with the said C. D. that he will [*here insert terms as to insurance, payment of rent, or otherwise, which the parties may agree to for the maintenance or defeasance of the security*].

Provided always, that the chattels hereby assigned shall not be liable to seizure or to be taken possession of by the said C. D. for any cause other than by order of the Court.

In witness, etc.

Signed and sealed by the said A. B. in the presence of me, E. F. [*add witness's name, address, and description*] after I have fully explained to the said A. B. the nature and effect hereof.

FORM B.

DECLARATION OF RENEWAL OF REGISTRATION.

I,.....of....., do solemnly and sincerely declare that a bill of sale bearing date the.....day of....., 19.., and made between .....of the one part and.....of the other part, which said bill of sale was registered on the.....day of....., 19.., is still a subsisting security, and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Enactment, 1899.

Subscribed and solemnly declared by the above-named.....at.....in the State of.....this.....day of ....., 19...

Before me

.....

Magistrate.

FORM C.

DECLARATION OF TRANSFER OF BILL OF SALE.

I,....., of....., do solemnly and sincerely declare that a bill of sale bearing date the.....day of....., 19.., and made between .....of the one part and.....of the other part, which said bill of sale was registered on the.....day of....., 19.. (and the registration whereof was last renewed on the.....day of....., 19..), is still a subsisting security, and was by an instrument

bearing date the.....day of....., 19.., transferred to.....of .....which said instrument is now produced and shown to me, marked....., and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Enactment, 1899.

Subscribed and solemnly declared by the above-named.....at.....in the State of.....this.....day of ....., 19...

Before me

.....

Magistrate.

ENACTMENT NO. 27 OF 1919.

An Enactment to prohibit the publication and importation of seditious newspapers, books, and documents.

F. S. JAMES,
President of the Federal Council.

[12th December, 1919.
19th December, 1919.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Seditious Publications (Prohibition) Enactment, 1919," and shall come into force on the publication thereof in the *Gazette*.

Interpretation.

2. In this Enactment, unless there be something repugnant in the subject or context,

"Newspaper" means any periodical work containing public news or comments on public news ;

"Book" includes every volume, part or division of a volume, pamphlet and leaflet in any language, and every sheet of music, map, chart, or plan separately printed or lithographed ;

"Document" includes any painting, drawing, or photograph or other visible representation ;

"Disaffection" includes disloyalty and all feelings of enmity.

Issue, or importation, etc., of seditious publications is an offence.

3. (i) Any person who prints, publishes, imports, sells, offers for sale, distributes, or has in his possession any newspaper, book, or document, or any extract from any newspaper or book, or who writes, prepares or produces any book or document, containing any words, signs, or visible representations which are likely or may have a tendency, directly or indirectly, whether by inference, suggestion, allusion, metaphor, implication, or otherwise—

(*a*) to incite to murder or to any act of violence ; or

(*b*) to seduce any member of any armed force serving the Federated Malay States or any officer, soldier, or sailor in the Army or Navy of His Britannic Majesty from his allegiance or his duty ; or

(*c*) to bring into hatred or contempt any of the Rulers of the Federated Malay States or the Government thereof or His Britannic Majesty or the Government established by law in the United Kingdom or in any British possession, or the administration of justice in any of such places, or any class or section of the subjects of any of the said Rulers or of His said Majesty in any of such places or to excite

disaffection towards any of the said Rulers or His said Majesty or any of the said Governments ; or

(*d*) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security, or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do ; or

(*e*) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order ; or

(*f*) to convey any threat of injury to a public servant, or any person in whom that public servant is believed to be interested, with a view to inducing that public servant to do any act or to forbear or delay to do any act connected with the exercise of his public functions,

shall be guilty of an offence against this Enactment, and such newspaper, book, or document or such extract shall be forfeited and may be destroyed or otherwise disposed of as the Chief Secretary to Government directs.

(ii) Comments expressing disapproval of the measures of any such Government as aforesaid with a view to obtain their alteration by lawful means, or of the administrative or other action of any such Government, or of the administration of justice in any such place as aforesaid without exciting or attempting to excite hatred, contempt, or disaffection are not within the scope of paragraph (*c*) of sub-section (i).

Importation, or sale, etc., of any publication prohibited by the Chief Secretary to Government to be imported is an offence.

4. (i) The Chief Secretary to Government may, by order published in the *Gazette*, prohibit to be imported or brought into the Federated Malay States any newspaper, book, or document.

(ii) Any person who imports, sells, distributes, publishes, prints, or has in his possession any newspaper, book, or document which is so prohibited to be imported or brought into the Federated Malay States or any extract from such newspaper or book shall be guilty of an offence against this Enactment, and such newspaper, book, or document or such extract shall be forfeited and may be destroyed or otherwise disposed of as the Chief Secretary to Government directs.

Innocent receiver of seditious or prohibited publication.

5. Any person to whom

(*a*) any newspaper, book, or document or any extract from any newspaper or book containing words, signs, or visible representations of the nature described in Section 3 ; or

(*b*) any newspaper, book, or document which has been prohibited to be imported under Section 4 or any extract from such newspaper or book

has been sent without his knowledge or privity shall forthwith deliver to the officer in charge of the nearest Police Station such newspaper, book, or document or such extract, and in default thereof shall be guilty of an offence against this Enactment.

Effect of compliance with or conviction under Section 5.

6. A person who has complied with the provisions of Section 5 or has been convicted of a breach thereof shall not be liable to be convicted of the offence of having in his possession any such newspaper, book, or document or any such extract under Section 3 or 4.

Issue of search-warrant.

7. A Court of a Magistrate may issue a warrant empowering any police officer not below the rank of Inspector to make entry and search

(*a*) for any newspaper, book, or document or any extract from any newspaper or book, containing words, signs, or visible representations of the nature described in Section 3 ; or

(*b*) for any newspaper, book, or document which has been prohibited to be imported under Section 4 or any extract from such newspaper or book

upon and in any premises where any such newspaper, book, or document or any such extract may be or may be reasonably suspected to be.

Detention and search of imported packages suspected to contain seditious or prohibited publications.

8. (i) Any officer authorized by the Chief Secretary to Government in this behalf may detain and search any package brought into the Federated Malay States which he suspects to contain—

(*a*) any newspaper, book, or document or any extract from any newspaper or book containing words, signs, or visible representations of the nature described in Section 3 ; or

(*b*) any newspaper, book, or document which has been prohibited to be imported under Section 4 or any extract from such newspaper or book,

and shall detain during such search any person bringing such package into the Federated Malay States.

(ii) If any such newspaper, book, or document or any such extract is found in such package, the person bringing such package may forthwith be arrested and proceeded against for the commission of an offence against this Enactment.

Detention of suspected articles transmitted by post.

9. (i) The Director of Posts and Telegraphs, Federated Malay States, or any officer authorized by him in this behalf may detain any article in course of transmission by post which he suspects to contain—

(*a*) any newspaper, book, or document or any extract from any newspaper or book containing words, signs, or visible representations of the nature described in Section 3 ; or

(*b*) any newspaper, book, or document which has been prohibited to be imported under Section 4, or any extract from such newspaper or book,

and shall deliver all such articles to such officer as the Chief Secretary to Government appoints in this behalf, to be disposed of in such manner as the Chief Secretary to Government directs.

Penalty for offence.

10. Any person who is guilty of an offence against this Enactment shall be liable to penal servitude for life, or to imprisonment of either description for a term which may extend to seven years, or to a fine not exceeding ten thousand dollars, or to both such penal servitude and fine or to both such imprisonment and fine.

ENACTMENT NO. 1 OF 1920.

An Enactment to charge upon the public revenues the principal and interest of certain Bonds proposed to be issued in the Straits Settlements.

E. L. Brockman,
President of the Federal Council.

[27th January, 1920.
30th January, 1920.]

Preamble.

Whereas by the preamble of a Bill, entitled an Ordinance to provide for raising money to be lent to His Majesty's Government, which is about to be introduced into the Legislative Council of the Colony of the Straits Settlements, it is declared to be desirable that a further opportunity be afforded for the local investment of moneys with the Government by way of loan in order that such moneys may be available for settlement of Imperial post-war liability :

And whereas by the said Bill provision is made for the raising of money by the issue in the said Colony of bonds payable to bearer and for the lending of the money so raised to His Britannic Majesty's Government :

And whereas the principal moneys and interest represented by the said bonds are by the said Bill proposed to be charged upon and declared to be payable out of the general revenue and assets of the said Colony :

And whereas with a view to promoting and furthering the local raising of money for loan to His Britannic Majesty's Government under the provisions of the said Bill when passed into law the Government of the Federated Malay States desires to provide further security for bonds to be issued under the provisions of such law by charging the same upon the general revenues and assets of the Federated Malay States :

It is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Victory Loan Enactment, 1920," and shall come into force on the publication thereof in the *Gazette*.

Loan issued under S. S. law to be a charge on general revenue.

2. The principal moneys and interest represented by the bonds to be issued under the provisions of the Bill hereinbefore referred to when the same shall have been passed (whether with or without amendment) into law in the Colony of the Straits Settlements are hereby charged upon and shall be payable out of the general revenues and assets of the Federated Malay States and of each of them.

3. Except so far as the requisite appropriation may in any half-year have been made in the Colony, the Chief Secretary to Government shall, in each half-year ending with the day on which the interest on the bonds falls due, appropriate out of the general revenues and assets of the Federated Malay States a sum equal to the interest due for such half-year, in order that the said interest may be paid therefrom. Payment of interest.

4. The said bonds shall be exempt from all duties other than duties on estates of deceased persons and from all taxes levied or leviable or which may hereafter be levied or leviable in the Federated Malay States. Exemption from duties and taxes.

5. The said bonds shall be accepted at par in payment of duties on estates of deceased persons. Duty on estates of deceased persons may be paid in bonds.

ENACTMENT NO. 4 OF 1920.

An Enactment to consolidate and amend the law relating to the grant of Probates of Wills and Letters of Administration to the estates of deceased persons and the appointment and powers of Official Administrators.

L. N. GUILLEMARD,
President of the Federal Council.

[8th May, 1920.
21st May, 1920.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

CHAPTER I.

PRELIMINARY.

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as "The Probate and Administration Enactment, 1920," and shall, with the exception of Chapter III, come into force on the publication thereof in the *Gazette*.

(ii) Chapter III shall come into force on such date as shall be appointed in that behalf by the Chief Secretary to Government by notification in the *Gazette*.

(iii) Upon the publication of this Enactment in the *Gazette* the Enactments mentioned in the first schedule shall be repealed.

(iv) Upon the coming into force of Chapter III the Enactments mentioned in the second schedule shall be repealed.

Interpretation.

2. In this Enactment, unless there is something repugnant in the subject or context,

"Administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor ;

"Codicil" means an instrument made in relation to a will and explaining, altering, or adding to its dispositions. It is considered as forming an additional part of the will ;

"Court" means the Supreme Court and includes, in cases where he or they are empowered to act, the Registrar, Assistant Registrars, and Deputy Registrars of the Supreme Court ;

"Demonstrative legacy" means a legacy directed to be paid out of specified property ;

"Executor" means a person to whom the execution of the last will of a deceased person is, by the testator's appointment, confided ;

"Minor" means any person who has not completed his age of twenty-one years, and "minority" means the status of any such person;

"Probate" means the copy of a will certified under the seal of a Court of competent jurisdiction, with a grant of administration to the estate of the testator;

"Specific legacy" means a legacy of specified property;

"Will" means the legal declaration of the intentions of the testator with respect to his property, which he desires to be carried into effect after his death.

3. The jurisdiction to grant probates of wills and letters of administration to the estates of deceased persons shall be as prescribed by "The Courts Enactment, 1918." Jurisdiction.

Chapter II.

GRANT OF PROBATE AND LETTERS OF ADMINISTRATION.

4. The executor or administrator, as the case may be, of a deceased person is his legal representative for all purposes, and all the property of the deceased person vests in him as such; provided that nothing herein contained shall vest in an executor or administrator any property of a deceased person which would otherwise have passed by survivorship to some other person. Status and property of executor or administrator as such.

5. When a will has been proved and deposited in a Court of competent jurisdiction situated beyond the limits of the Federated Malay States, and a properly authenticated copy of the will is produced, letters of administration may be granted with a copy of such copy annexed. Administration with copy annexed of authenticated copy of will proved abroad.

6. Probate can be granted only to an executor appointed by the will. Probate only to appointed executor.

7. The appointment may be express or by necessary implication. Appointment express or implied.

Illustrations.

(*a*) A wills that C be his executor if B will not. B is appointed executor by implication.

(*b*) A gives a legacy to B and several legacies to other persons, among the rest to his daughter-in-law, C, and adds, "but should the within-named C be not living, I do constitute and appoint B my whole and sole executrix." C is appointed executrix by implication.

(*c*) A appoints several persons executors of his will and codicils, and his nephew residuary legatee, and in another codicil are these words: "I appoint my nephew my residuary legatee to discharge all lawful demands against my will and codicils, signed of different dates." The nephew is appointed an executor by implication.

8. Probate cannot be granted to any person who is a minor or is of unsound mind. To whom probate cannot be granted.

9. When several executors are appointed, probate may be granted to them all simultaneously or at different times. Grant of probate to several executors simultaneously or at different times.

Illustration.

A is an executor of B's will by express appointment, and C an executor of it by implication. Probate may be granted to A and C at the same time, or to A first and then to C, or to C first and then to A.

Where codicil discovered after grant of probate.

10. (i) If a codicil be discovered after the grant of probate, a separate probate of that codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the will.

(ii) If different executors are appointed by the codicil, the probate of the will must be revoked and a new probate granted of the will and the codicil together.

Accrual of representation to surviving executor.

11. When probate has been granted to several executors and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

Effect of probate.

12. Probate of a will, when granted, establishes the will from the death of the testator and renders valid all intermediate acts of the executor as such.

To whom administration cannot be granted.

13. Letters of administration cannot be granted to any person who is a minor or of unsound mind.

Effect of letters of administration.

14. Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

Acts not validated by administration.

15. Letters of administration do not render valid any intermediate acts of the administrator tending to the diminution or damage of the intestate's estate.

Grant of administration where executor has not renounced.

16. When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued calling upon the executor to accept or renounce his executorship; provided that, when one or more of several executors has or have proved a will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

Form and effect of renunciation of executorship.

17. The renunciation may be made orally in the presence of the Court, or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the will appointing him executor.

Where executor renounces or fails to accept within time limited.

18. If the executor renounces, or fails to accept, the executorship within the time limited for the acceptance or refusal thereof, the will may be proved and letters of administration with a copy of the will annexed may be granted to the person who would be entitled to administration in case of intestacy.

Grant of administration to universal or residuary legatee.

19. When

(*a*) the deceased has made a will but has not appointed an executor, or

(*b*) the deceased has appointed an executor who is legally incapable or refuses to act, or has died before the testator, or before he has proved the will, or

(*c*) the executor dies after having proved the will but before he has administered all the estate of the deceased,

a universal or a residuary legatee may be admitted to prove the will, and letters of administration with the will annexed may be granted to him of the whole estate or of so much thereof as may be unadministered.

Right of representative of deceased universal or residuary legatee.

20. When a universal or a residuary legatee who has a beneficial interest survives the testator but dies before the estate has been fully administered, his representative has the same right to administration with the will annexed as such universal or residuary legatee.

Where no executor or universal or residuary legatee or representative of such legatee.

21. When there is no executor and no universal or residuary legatee or representative of a universal or residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the will, and letters of administration may be granted to him or them accordingly.

Citation before grant of administration to legatee other than universal or residuary.

22. Letters of administration with the will annexed shall not be granted to any legatee other than a universal or a residuary legatee until a citation has been issued and published in the manner hereinafter mentioned, calling on the next-of-kin to accept or refuse letters of administration.

When testator is a public servant not domiciled in Malay Peninsula.

23. When the testator is a public servant not domiciled in the Malay Peninsula and no executor or universal or residuary legatee or representative of such legatee can be found within fourteen days after the death of such public servant within the jurisdiction willing and capable to act, any person authorized thereto in writing by the Resident of the State wherein the application for letters of administration is made may be admitted to prove the will, and letters of administration may be granted to him accordingly.

To whom administration of intestate's estate may be granted.

24. (i) When the deceased has died intestate, administration of his estate may be granted to any person who, according to the rules for the distribution of the estate of an intestate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased's estate.

(ii) When several such persons apply for administration, it shall be in the discretion of the Court to grant it to any one or more of them.

(iii) When no such person applies, it may be granted to a creditor of the deceased.

When public servant, not domiciled in Malay Peninsula, dies intestate.

25. When a public servant not domiciled in the Malay Peninsula has died intestate and no person who, according to the rules for the distribution of the estate of an intestate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased's estate has applied for administration within fourteen days after the death of such public servant, administration of his estate may be granted to any person authorized in writing by the Resident of the State wherein the application for letters of administration is made to make application in that behalf.

Powers of Chief Police Officers not affected.

26. Nothing in this Enactment shall affect the powers of the Chief Police Officer of any State to order the property of any person dying intestate in such State, leaving movable property therein under one hundred dollars in value, which property is, in the absence of any person entitled thereto, taken charge of by the Police for the purpose of safe custody, to be delivered, without letters of administration taken out, under the provisions of Sections 28 and 29 of the Police Force Enactments, 1905.

Commission to executors or administrators.

27. The Court may in its discretion allow to executors or administrators a commission not exceeding five per cent. on the value of the assets collected by them, but in the allowance or disallowance of such commission the Court shall be guided by its approval or otherwise of their conduct in the administration of the estate.

Chapter III.

GRANT TO, AND POWERS OF, OFFICIAL ADMINISTRATOR.

Appointment of Official Administrator and Assistants.

28. (i) The Chief Secretary to Government may from time to time appoint such person or persons as he thinks fit, by name or office, to be Official Administrator or Administrators or Assistant Official Administrator or Administrators of the property of deceased persons for the purposes of this Chapter, and may define the limits within which any Official Administrator or Assistant Official Administrator shall exercise and perform his powers and duties.

(ii) An Assistant Official Administrator shall have and may exercise all the powers of an Official Administrator within the limits defined for such Assistant Official Administrator under sub-section (i) but shall act under the general control and supervision of an Official Administrator.

Grant of administration to Official Administrator

29. (i) In any case where a person dies intestate or without appointing executors or where no executor takes out probate of the will, the Official Administrator may apply for letters of administration of the estate and effects of such intestate or of such testator; and in any case where six months shall have elapsed after the death of such intestate or testator without any application for letters of administration or for probate being made by any person it shall be the duty of the Official Administrator so to apply, unless he is satisfied that there is good and sufficient cause for the delay.

(ii) On application being made by the Official Administrator under sub-section (i) letters of administration shall be granted to the Official Administrator accordingly, unless in any particular cases the Court for sufficient reasons directs that letters of administration be granted to a person other than the Official Administrator.

Estates to vest in Official Administrator.

30. From and after the decease of persons dying intestate and until letters of administration shall be granted in respect of their estates and effects, the estates and effects which were of such deceased persons shall be vested in the Official Administrator.

Official Administrator may take possession of property.

31. The Official Administrator, or an Assistant Official Administrator, acting within the local limits (if any) defined for him under Section 28, may, so soon as he learns, on such evidence as he shall deem sufficient, that any person has died intestate leaving property in the Federated Malay States, or within such limits as aforesaid, forthwith take possession thereof and provide for the safe custody thereof until letters of administration are granted by the Court.

Penalty for removing, etc., such property.

32. Any person who shall without lawful authority or excuse remove or attempt to remove out of the State wherein the same is

situate any portion of such property, or shall destroy, conceal, or refuse to yield up the same on demand to the Official Administrator or Assistant Official Administrator, shall be guilty of an offence and liable on conviction to fine not exceeding five hundred dollars and also to imprisonment of either description for a term not exceeding six months.

No suit against Official Administrator; remedy by petition.

33. (i) No suit shall be brought against the Official Administrator or any Assistant Official Administrator for anything done by him in relation to such property under the authority or in the execution or intended execution of the powers vested in him by Section 31 ; but any person who shall feel aggrieved thereby may apply for redress to the Supreme Court by petition supported by affidavit.

(ii) Every petition under this section shall be filed with the Registrar, or Assistant or Deputy Registrar, together with so many copies thereof as may be required for service upon the persons intended to be served therewith, and the Registrar, or Assistant or Deputy Registrar, shall mark on the original and on each copy a day on which the same is to be heard. Copies of such petitions shall be served in the manner prescribed for service of summons, and upon the hearing of such petition, in Court or in Chambers, the said Court may take such evidence as it shall think fit and may make any order in relation to such property which the justice of the case requires.

Commission on property administered by Official Administrator.

34. (i) When the property of a deceased person is administered by the Official Administrator under this Enactment no commission shall be allowed under Section 27, but there shall be payable on the value of the property so administered a commission at such rates as may be from time to time prescribed by rule made by the Chief Secretary to Government and published in the *Gazette*, and such commission shall be credited to the public revenue.

(ii) Where the commission payable under sub-section (i) in respect of the property of any person administered by the Official Administrator would not amount to ten dollars, there shall be payable in respect of such administration and in lieu of the said commission the sum of ten dollars.

Lien of Official Administrator

35. The Official Administrator shall have a lien upon all such property for the reasonable expenses incurred by him in respect thereof in carrying out the provisions of this Enactment and for the commission, or sum in lieu of commission, payable under Section 34, and such expenses and commission, or sum, shall also constitute a first charge on the estate of the deceased.

Rules.

36. The Chief Secretary to Government may, by notification in the *Gazette*, make rules for the due conduct of the duties of Official Administrators and Assistant Official Administrators and to prescribe the remuneration (if any) to be granted to them for their services.

Chapter IV.

LIMITED GRANTS.

A.—Grants Limited in Duration.

Probate of copy or draft of lost will.

37. When the will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident and not by any act of the testator, and a copy or the draft of the will has been preserved, probate may be granted of such copy or draft, limited until the original or a properly authenticated copy of it be produced.

Probate of contents of lost or destroyed will.

38. When the will has been lost or destroyed and no copy has been made nor the draft preserved, probate may be granted of its contents, if they can be established by evidence.

Probate of copy where original exists.

39. When the will is in the possession of a person residing out of the Federated Malay States who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the will or an authenticated copy of it be produced.

Administration until will produced.

40. When no will of the deceased is forthcoming, but there is reason to believe that there is a will in existence, letters of administration may be granted, limited until the will or an authenticated copy of it be produced.

B.—Grants for the Use and Benefit of Others having Right.

Administration, with will annexed, to attorney of absent executor.

41. When any executor is absent from the Federated Malay States and there is no executor within the Federated Malay States willing to act, letters of administration with the will annexed may be granted to the attorney of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself.

Administration, with will annexed, to attorney of absent person entitled.

42. When any person to whom, if present, letters of administration with the will annexed might be granted is absent from the Federated Malay States, letters of administration with the will annexed may be granted to his attorney, limited as above-mentioned.

Administration in intestacy to attorney of absent person entitled.

43. When a person entitled to administration in case of intestacy is absent from the Federated Malay States and no person equally entitled is willing to act, letters of administration may be granted to the attorney of the absent person, limited as above-mentioned.

Administration during minority of sole executor or residuary legatee.

44. When a minor is sole executor or sole residuary legatee, letters of administration with the will annexed may be granted to the legal guardian of such minor, or to such other person as the Court shall think fit, until the minor has attained his majority, at which period, and not before, probate of the will shall be granted to him.

Administration during minority of several executors or residuary legatees.

45. When there are two or more minor executors and no executor who has attained majority, or two or more residuary legatees and no residuary legatee who has attained majority, the grant shall be limited until one of them has attained his majority.

Administration for use and benefit of minor or lunatic.

46. If a sole executor or a sole universal or residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rules for the distribution of the estate of an intestate applicable in the case of the deceased, be a minor or lunatic, letters of administration with or without the will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority or, if there be no such person, to such other person as the Court thinks fit to appoint, for the use and benefit of the minor or lunatic, until he attains majority or becomes of sound mind, as the case may be.

Administration *pendente lite*.

47. Pending any suit touching the validity of the will of a deceased person or for obtaining or revoking any probate or any grant of letters of administration, the Court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator other than the right of distributing such estate ; and every such administrator shall be subject to the immediate control of the Court and shall act under its direction.

C.—Grants for Special Purposes.

Probate limited to purpose specified in will.

48. If an executor be appointed for any limited purpose specified in the will, the probate shall be limited to that purpose, and, if he appoint an attorney to take administration on his behalf, the letters of administration with the will annexed shall be limited accordingly.

Administration with will annexed limited to particular purpose.

49. If an executor appointed generally give an authority to an attorney to prove a will on his behalf and the authority is limited to a particular purpose, the letters of administration with the will annexed shall be limited accordingly.

Administration limited to trust property.

50. Where a person dies, leaving property of which he was the sole or surviving trustee or in which he had no beneficial interest on his own account, and leaves no general representative or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the beneficiary or to some other person on his behalf.

Administration limited to suit.

51. When it is necessary that the representative of a person deceased be made a party to a pending suit and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other suit which may be commenced in the same or in any other Court between the parties, or any other parties, touching the matters at issue in the said suit, and until a final decree shall be made therein and carried into complete execution.

Administration limited to purpose of becoming party to suit to be brought against executor or administrator.

52. If at the expiration of twelve months from the date of any probate or letters of administration the executor or administrator to whom the same has or have been granted is absent from the Federated Malay States, the Court may grant to any person whom it thinks fit letters of administration limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator and carrying the decree which may be made therein into effect.

Administration limited to collection and preservation of deceased's property.

53. In any case in which it appears necessary for preserving the property of a deceased person, the Court may grant, to any person whom the Court thinks fit, letters of administration limited to the collection and preservation of the property of the deceased and to giving discharges for debts due to his estate, subject to the directions of the Court.

Appointment as administrator of person other than one who under ordinary circumstances would be entitled to administration.

54. (i) When a person has died intestate, or leaving a will of which there is no executor willing and competent to act, or where the executor is, at the time of the death of such person, resident out of the Federated Malay States, and it appears to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof other than the person who under ordinary circumstances would be entitled to a grant of administration, the Court may in its discretion, having regard to consanguinity, amount of interest, the safety of the estate, and the probability that it will be properly administered, appoint such person as it thinks fit to be administrator.

(ii) In every such case letters of administration may be limited or not, as the Court thinks fit.

D.—Grants with Exception.

Probate or administration with will annexed subject to exception.

55. Whenever the nature of the case requires that an exception be made, probate of a will or letters of administration with the will annexed shall be granted subject to such exception.

Administration subject to exception.

56. Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.

Additional administrator.

56A. Whenever the nature of the case requires the Court may appoint an additional administrator or additional administrators to act jointly with the original administrator and on such terms as the Court may think fit.

E.—Grants of the Rest.

Probate or administration of the rest.

57. Whenever a grant with exception, of probate, or of letters of administration with or without the will annexed, has been made, the person entitled to probate or administration of the remainder of the deceased's estate may take a grant of probate or letters of administration, as the case may be, of the rest of the deceased's estate.

F.—Grants of Effects Unadministered.

Grant of effects unadministered.

58. If the executor to whom probate has been granted has died leaving a part of the testator's estate unadministered, a new representative may be appointed for the purpose of administering such part of the estate.

Rules as to grants of effects unadministered.

59. In granting letters of administration of an estate not fully administered the Court shall be guided by the same rules as apply to original grants and shall grant letters of administration to those persons only to whom original grants might have been made.

60. When a limited grant has expired by effluxion of time or the happening of the event or contingency on which it was limited and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made. When limited grant expired and administration incomplete.

Chapter V.

ALTERATION AND REVOCATION OF GRANTS.

61. Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the Court, and the grant of probate or letters of administration may be altered and amended accordingly. What errors may be rectified by Court.

62. If, after the grant of letters of administration with the will annexed, a codicil be discovered, it may be added to the grant on due proof and identification, and the grant may be altered and amended accordingly. When codicil discovered after grant of administration with will annexed.

63. The grant of probate or letters of administration may be revoked or annulled for just cause. Revocation or annulment for just cause.

Explanation : " Just cause " is—

(1) that the proceedings to obtain the grant were defective in substance ;

(2) that the grant was obtained fraudulently by making a false suggestion or by concealing from the Court something material to the case ;

(3) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant, though such allegation was made in ignorance or inadvertently ;

(4) that the grant has become useless and inoperative through circumstances ;

(5) that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Chapter VIII of this Enactment, or has exhibited under that Chapter an inventory or account which is untrue in a material respect.

Illustrations.

(*a*) The Court by which the grant was made had no jurisdiction.

(*b*) The grant was made without citing parties who ought to have been cited.

(*c*) The will of which probate was obtained was forged or revoked.

(*d*) A obtained letters of administration to the estate of B, as his widow, but it has since transpired that she was never married to him.

(*e*) A has taken administration to the estate of B as if he had died intestate, but a will has since been discovered.

(*f*) Since probate was granted a later will has been discovered.

(*g*) Since probate was granted a codicil has been discovered which revokes or adds to the appointment of executors under the will.

(*h*) The person to whom probate was, or letters of administration were, granted has subsequently become of unsound mind.

Chapter VI.

THE PRACTICE IN GRANTING AND REVOKING PROBATES AND LETTERS OF ADMINISTRATION.

Court's powers as to grant of probate and administration.

64. The Court shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in it in relation to any civil suit or proceeding pending in the Court.

Court may order person to produce testamentary papers.

65. (i) The Court may order any person to produce and bring into Court any paper or writing being or purporting to be testamentary, which may be shewn to be in the possession or under the control of such person.

(ii) If it is not shown that any such paper or writing is in the possession or under the control of such person but there is reason to believe that he has knowledge of any such paper or writing, the Court may direct him to attend for the purpose of being examined respecting the same.

(iii) Such person shall be bound to answer such questions as may be put to him by the Court and, if so ordered, to produce and bring in such paper or writing and shall be subject to the like punishment, in case of default in not attending or not answering such questions or not bringing in such paper or writing, as he would have been subject to if he had been a party to a suit and had made such default.

(iv) The costs of the proceeding shall be in the discretion of the Court.

Regulation of proceedings of Court.

66. The proceedings of the Court in relation to the granting of probate and letters of administration shall, except as hereinafter otherwise provided, be regulated, so far as the circumstances of the case will admit, by the Civil Procedure Code in force for the time being.

When probate or administration may be granted by Court.

67. Probate of the will or letters of administration to the estate of a deceased person may be granted under the seal of the Court and signature of the presiding officer, if it appears by a petition, verified as hereinafter mentioned, of the person applying for the same that the testator or intestate, as the case may be, had at the time of his decease a fixed place of abode, or any property, movable or immovable, within the jurisdiction of the Court.

Conclusiveness of probate or letters of administration.

68. Probate or letters of administration shall

(*a*) have effect over all the property, movable or immovable, of the deceased throughout the Federated Malay States, and

(*b*) be conclusive as to the representative title against all debtors of the deceased and all persons holding property which belongs to him, and

(*c*) afford full indemnity to all debtors paying their debts and all persons delivering up such property to the person to whom such probate or letters of administration shall have been granted.

Conclusiveness of application for probate or administration, if properly made and verified.

69. The application for probate or letters of administration, if made and verified in the manner hereinafter mentioned, shall be conclusive for the purpose of authorizing the grant of probate or administration, and no such grant shall be impeached by reason that the testator or intestate had no fixed place of abode, or no property, within the jurisdiction of the Court at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.

Petition for probate.

70. Application for probate or for letters of administration with the will annexed shall be made by a petition distinctly written in English, with the will, or in the cases mentioned in Sections 37, 38, and 39 a copy, draft, or statement of the contents thereof, annexed, and stating—

(*a*) the time of the testator's death ;

(*b*) that the writing annexed is his last will and testament, or as the case may be ;

(*c*) that it was duly executed ;

(*d*) the amount of assets which are likely to come to the petitioner's hands ;

(*e*) where the application is for probate, that the petitioner is the executor named in the will ;

(*f*) that the deceased at the time of his death had a fixed place of abode or had some property situate within the jurisdiction of the Court ; and

(*g*) that, to the best of the petitioner's belief, no application has been made to the Court at any other place in the Federated Malay States for probate of the same will or for letters of administration with the same will annexed, or, where any such application has been made, the place at which it was made, the person or persons by whom it was made, and the proceeding, if any, had thereon.

In what cases translation of will to be annexed to petition.

71. In cases where the will, copy, or draft is written in any language other than English there shall be a translation thereof annexed to the petition by a translator of the Court, if the language be one for which a translator is appointed ; or, if the will, copy, or draft be in any other language, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner :

"I (A. B.) do declare that I read and perfectly understand the language and character of the original and that the above is a true and accurate translation thereof."

Petition for letters of administration.

72. Application for letters of administration shall be made by petition distinctly written as aforesaid and stating—

(*a*) the time and place of the deceased's death ;

(*b*) the family or other relatives of the deceased, and their respective residences ;

(*c*) the right in which the petitioner claims ;

(*d*) the amount of assets which are likely to come to the petitioner's hands ;

(*e*) that the deceased at the time of his death had a fixed place of abode or had some property situate within the jurisdiction of the Court; and

(*f*) that, to the best of the petitioner's belief, no application has been made to the Court at any other place in the Federated Malay States for letters of administration of the same estate, or, where any such application has been made, the place at which it was made, the person or persons by whom it was made and the proceeding, if any, had thereon.

Petition for probate or administration to be signed and verified.

73. The petition for probate or letters of administration shall in all cases be subscribed by the petitioner and be verified by the petitioner in the following manner or to the like effect:

"I, (A. B.,) the petitioner in the above petition, declare that what is stated therein is true, to the best of my information and belief."

Verification of petition for probate by one witness to will.

74. Where the application is for probate, or for letters of administration with the will annexed, the petition shall also be verified by at least one of the witnesses to the will (when procurable) in the following manner or to the like effect:

"I, (C. D.,) one of the witnesses to the last will and testament of the testator mentioned in the above petition, declare that I was present and saw the said testator affix his signature (*or* mark) thereto (*as the case may be*) (*or* that the said testator acknowledged the writing annexed to the above petition to be his last will and testament in my presence)."

Punishment for false averment in petition or declaration.

75. If any petition or declaration which is hereby required to be verified contains any averment which the person making the verification knows or believes to be false, such person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

Court may examine petitioner, require further evidence, and issue citations.

76. (i) In all cases the Court may, if it thinks fit,

(*a*) examine the petitioner in person upon oath or affirmation;

(*b*) require further evidence of the due execution of the will, or of the right of the petitioner to letters of administration, as the case may be; and

(*c*) issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration.

(ii) Every citation shall be fixed up in some conspicuous part of the Court-house, shall be served upon such persons as the Court may direct, and shall be otherwise published or made known in such manner as the Court may direct.

Caveats against grant of probate or administration.

77. (i) Caveats against the grant of probate or letters of administration may be lodged with the Registrar, or with any Assistant Registrar or Deputy Registrar, of the Supreme Court.

(ii) Immediately on a caveat being lodged, the officer with whom the same is lodged shall send a copy thereof to every other

Assistant Registrar and Deputy Registrar of the Supreme Court, and, if he be not the Registrar, to the Registrar.

Nature of caveat.

78. The caveat shall be to the following effect:

"Let nothing be done in the matter of the estate of A. B., late of , deceased, who died on the day of , 19 , at , without notice to C. D., of ."

Effect of caveat.

79. No proceeding shall be taken on a petition for probate or letters of administration after a caveat against the grant thereof has been entered with the Court at the place at which the application has been made, or notice thereof has been given of its entry at some other place, until after such notice to the person by whom the same has been entered as the Court shall think reasonable.

Form of grant of probate.

80. Whenever it appears to the Court that probate of a will should be granted, the Court shall grant the same under its seal in manner following:

"I, (Chief Judicial Commissioner *or* Judicial Commissioner *or* Registrar, Assistant Registrar, or Deputy Registrar of the Supreme Court,) hereby make known that on the day of in the year the last will of , late of , a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way concerning his will, was granted to , the executor in the said will named, he having undertaken to administer the same and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint.

The day of , 19 ."

Form of grant of letters of administration.

81. Whenever it appears to the Court that letters of administration to the estate of a person deceased, with or without a copy of the will annexed, should be granted, the Court shall grant the same under its seal in manner following:—

"I, (Chief Judicial Commissioner *or* Judicial Commissioner *or* Registrar, Assistant Registrar, or Deputy Registrar of the Supreme Court), hereby make known that on the day of in the year letters of administration (with *or* without the will annexed, *as the case may be*) of the property and credits of , late of , deceased, were granted to , the (father *or as the case may be*) of the deceased, he having undertaken to administer the same and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint.

The day of , 19 ."

Administration bond.

82. Every person to whom, not being an Official Administrator or Official Trustee (by whatever name called) appointed by or under any legislative provision of the Federated Malay States or of any of them or of the United Kingdom or any British Possession or Protectorate, any grant of letters of administration is committed, and, if the Court so direct, any person to whom probate is granted, shall give a bond to the Registrar of the Supreme Court to enure for the benefit of the Registrar for the time being, with two sureties in the amount at which the estate within the jurisdiction is sworn, engaging for duly collecting, getting in, and administering the estate of the deceased, which bond shall be in the form heretofore in use or in such other form as the Judicial Commissioners or any two of them, of whom the Chief Judicial Commissioner shall be one, from time to time by any general or special order direct. Provided that the Court may for sufficient reasons increase or decrease the number of the sureties or dispense with them, and may reduce or enhance the amount of the bond, and the Court in exercising its discretion shall consider the standing of the parties, the nature of the property, the amount of the debts, and the extent of the administrator's personal interest or distributive share in the estate.

Assignment of administration bond.

83. A Judicial Commissioner may, on application made by petition and on being satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Judicial Commissioner may think fit, by order direct the Registrar to assign the same to some proper person, to be named in the order, who shall, upon such assignment, be entitled to sue on the said bond in his own name as if the same had been originally given to him instead of to the Registrar, and shall be entitled to recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach thereof.

Discharge from administration bond.

84. Where an executor or administrator who has given a bond under Section 82, or under the corresponding provisions of any Enactment hereby repealed, and is in possession of any part of the estate of the testator or intestate has complied with the provisions of Section 102 so far as is practicable but is prevented from fully complying therewith by reason of inability to ascertain or to communicate with the persons beneficially entitled to the residue in his hands, he may exhibit in the Court an account, duly audited, showing how the estate has been administered and may thereafter, with the leave of the Court, pay into Court the residue in his hands. After such payment into Court the Court shall, unless good cause is shewn to the contrary, discharge the executor or administrator and his surety or sureties (if any) from the obligations of the said bond.

Time before which probate or administration shall not be granted.

85. No probate of a will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days, from the day of the death of the testator or intestate.

Filing of wills in Court.

86. (i) There shall be filed and preserved among the records of the Supreme Court all original wills and authenticated copies of wills of which probate or letters of administration with the will annexed may be granted by the Court.

(ii) The Judicial Commissioners or any two of them, of whom the Chief Judicial Commissioner shall be one, may, with the approval of the Chief Secretary to Government, make regulations for the preservation and inspection of the wills or authenticated copies of wills so filed as aforesaid.

Exclusive power of grantee of probate or administration to sue, etc.

87. After any grant of probate or letters of administration, no other than the person to whom the same shall have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, throughout the Federated Malay States, until such probate or letters of administration shall have been revoked.

Procedure in contentious cases.

88. In any case before the Court in which there is contention the proceedings shall take, as nearly as may be, the form of a suit, according to the provisions of the Civil Procedure Code in force for the time being, in which the petitioner for probate or letters of administration, as the case may be, shall be the plaintiff and the person who may have appeared as aforesaid to oppose the grant shall be the defendant.

Saving of rights where probate or administration revoked.

89. Where any probate is, or letters of administration are, revoked,

(*a*) all payments *bonâ fide* made to any executor or administrator under such probate or letters of administration before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same ; and

(*b*) the executor or administrator who shall have acted under any such revoked probate or letters of administration may retain and reimburse himself out of the assets of the deceased in respect of any payments made by him which the person to whom probate or letters of administration shall be afterwards granted might have lawfully made.

Power to refuse letters of administration.

90. Notwithstanding anything hereinbefore contained, it shall be in the discretion of the Court to make an order refusing, for reasons to be recorded by it in writing, to grant any application for letters of administration made under this Enactment.

Surrender of revoked probate or letters of administration.

91. (i) When a grant of probate or letters of administration is revoked or annulled under this Enactment, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court at the place where the grant was made.

(ii) If such person wilfully and without sufficient cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand dollars, or with imprisonment of either description for a term which may extend to three months, or with both.

Chapter VII.

THE POWERS OF AN EXECUTOR OR ADMINISTRATOR.

Causes of action surviving deceased, and debts due at death.

92. An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and may exercise the same powers for the recovery of debts due to him at the time of his death, as the deceased had when living.

Demands and rights of suit survive to and against executor or administrator.

93. All demands whatsoever, and all rights to prosecute or defend any suit or other proceeding, existing in favour of or against a person at the time of his decease survive to and against his executors or administrators, except causes of action for defamation, assault as defined in the Penal Code, or other personal injuries not causing the death of the party, and except also cases where after the death of the party the relief sought could not be enjoyed or granting it would be nugatory.

ILLUSTRATION.

A collision takes place on a railway in consequence of some neglect or default of the officials, and a passenger is severely hurt, but not so as to cause death. He afterwards dies without having instituted any suit. The cause of action does not survive.

Power of executor or administrator to dispose of property.

94. (i) An executor or administrator has, subject to the provisions of this section, power to dispose, as he thinks fit, of all or any of the property for the time being vested in him under Section 4.

(ii) The power of an executor to dispose of immovable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immovable property specified in the order in a manner permitted by the order.

(iii) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,

(*a*) mortgage, charge, or transfer by sale, gift, exchange, or otherwise any immovable property for the time being vested in him under Section 4, or

(*b*) lease any such property for a term exceeding five years.

(iv) A disposal of property by an executor or administrator in contravention of sub-section (ii) or sub-section (iii), as the case may be, is voidable at the instance of any other person interested in the property.

(v) Before any probate or letters of administration is or are granted under this Enactment there shall be endorsed thereon or annexed thereto a copy of sub-sections (i), (ii), and (iv), or of sub-sections (i), (iii), and (iv), as the case may be, and of Section 102.

(vi) No probate or letters of administration shall be rendered invalid by reason of the endorsement or annexure required by the last preceding sub-section not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure authorize an executor or administrator to act otherwise than in accordance with the provisions of this section.

Purchase by executor or administrator of deceased's property.

95. If an executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

Powers of several executors or administrators exercisable by one.

96. When there are several executors or administrators, the powers of all may, in the absence of any direction to the contrary in the will or grant of letters of administration, be exercised by any one of them who has proved the will or taken out administration.

ILLUSTRATIONS.

(*a*) One of several executors has power to release a debt due to the deceased.

(*b*) One has power to surrender a lease.

(*c*) One has power to sell the property of the deceased, movable or immovable.

(*d*) One has power to assent to a legacy.

(*e*) One has power to endorse a promissory note payable to the deceased.

(*f*) The will appoints A, B, C, and D to be executors and directs that two of them shall be a quorum. No act can be done by a single executor.

Survival of powers on death of one of several executors or administrators.

97. Upon the death of one or more of several executors or administrators all the powers of the office become, in the absence of any direction to the contrary in the will or grant of letters of administration, vested in the survivors or survivor.

Powers of administrator of effects unadministered.

98. The administrator of effects unadministered has, with respect to such effects, the same powers as the original executor or administrator.

Powers of administrator during minority.

99. An administrator during minority has all the powers of an ordinary administrator.

CHAPTER VIII.

THE DUTIES OF AN EXECUTOR OR ADMINISTRATOR.

Deceased's funeral ceremonies.

100. It is the duty of an executor to provide funds for the performance of the necessary funeral ceremonies of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose.

Inventory and account.

101. (i) An executor or administrator shall

(*a*) within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and

(*b*) in like manner within one year from the grant, or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, shewing the assets which have come to his hands and the manner in which they have been applied or disposed of.

(ii) The Judicial Commissioners or any two of them, of whom the Chief Judicial Commissioner shall be one, may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

(iii) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under Section 176 of the Penal Code.

(iv) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under Section 193 of the Penal Code.

Collection of and dealing with the property.

102. The executor or administrator shall with all reasonable expedition and diligence collect the property of the deceased and the debts due to him and shall pay all debts due by the deceased's estate and the legacies under the will (if any), in accordance with the provisions hereinafter contained, and shall forthwith proceed, when there is no minority or other special reason to the contrary, to hand over the residue of the estate (if any), to the person or persons entitled thereto and to make his final report to the Court setting forth the manner in which he has discharged his duties.

Expenses to be paid first.

103. Funeral expenses to a reasonable amount, according to the degree and quality of the deceased, and death-bed charges, including fees for medical attendance, and board and lodging for one month previous to his death, are to be paid before all other debts.

Expenses to be paid next after such expenses.

104. The expenses of obtaining probate or letters of administration, including the costs incurred for or in respect of any judicial proceedings that may be necessary for administering the estate, are to be paid next after the funeral expenses and death-bed charges.

Wages for certain services to be next paid, and then other debts.

105. Wages due for services rendered to the deceased within the three months next preceding his death by any labourer, artizan, or domestic servant are next to be paid, and then the other debts of the deceased according to their respective priorities (if any).

Save as aforesaid, all debts to be paid equally and rateably.

106. Save as aforesaid, no creditor shall have a right of priority over another, but the executor or administrator shall pay all such debts as he knows of, including his own, equally and rateably, as far as the assets of the deceased will extend.

Debts to be paid before legacies.

107. Debts of every description shall be paid before any legacy.

Executor or administrator not bound to pay legacies without indemnity.

108. If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities whenever they may become due.

Abatement of general legacies; no preferential payment.

109. (i) If the assets, after payment of debts, necessary expenses, and specific legacies, are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions.

(ii) In the absence of any direction to the contrary in the will, the executor has no right to pay one legatee in preference to another nor to retain any money on account of a legacy to himself or to any person for whom he is a trustee.

No abatement of specific legacy when assets sufficient to pay debts and expenses.

110. Where there is a specific legacy and the assets are sufficient for the payment of debts and necessary expenses, the thing specified shall be delivered to the legatee without any abatement.

Right under demonstrative legacy when assets sufficient to pay debts and expenses.

111. Where there is a demonstrative legacy and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted, and if, after the fund is exhausted, part of the

legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.

112. If the assets are not sufficient to answer the debts and the specific legacies, an abatement shall be made from the latter rateably in proportion to their respective amounts. Rateable abatement of specific legacies.

ILLUSTRATION.

A has bequeathed to B a diamond ring, valued at $500, and to C a horse, valued at $1,000. It is found necessary to sell all the effects of the testator, and his assets, after payment of debts, are only $750. Of this sum $250 are to be paid to B and $500 to C.

113. For the purpose of abatement, a legacy for life, a sum appropriated by the will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies. Legacies treated as general for purpose of abatement.

CHAPTER IX.

EXECUTOR'S ASSENT TO A LEGACY.

114. The assent of the executor is necessary to complete a legatee's title to his legacy. Assent necessary to complete legatee's title.

ILLUSTRATIONS.

(*a*) A by his will bequeaths to B his municipal mortgages which are on deposit with the Chartered Bank. The Bank has no authority to deliver the securities, nor B a right to take possession of them, without the assent of the executor.

(*b*) A by his will has bequeathed to C his house in Ipoh in the tenancy of B. C is not entitled to receive the rents without the assent of the executor.

115. (i) The assent of the executor to a specific bequest shall be sufficient to divest his interest as executor therein and to transfer the subject of the bequest to the legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way. Executors' assent to specific legacy.

(ii) This assent may be verbal, and it may be either express or implied from the conduct of the executor.

ILLUSTRATIONS.

(*a*) A horse is bequeathed. The executor requests the legatee to dispose of it, or a third party proposes to purchase the horse from the executor, and he directs him to apply to the legatee. Assent to the legacy is implied.

(*b*) The interest of a fund is directed by the will to be applied for the maintenance of the legatee during his minority. The executor commences so to apply it. This is an assent to the whole of the bequest.

(*c*) A bequest is made of a fund to A, and after him to B. The executor pays the interest of the fund to A. This is an implied assent to the bequest to B.

(*d*) Executors die after paying all the debts of the testator but before satisfaction of specific legacies. Assent to the legacies may be presumed.

(*e*) A person to whom a specific article has been bequeathed takes possession of it and retains it without any objection on the part of the executor. His assent may be presumed.

Conditional assent.

116. The assent of an executor to a legacy may be conditional, and if the condition is one which he has a right to enforce, and it is not performed, there is no assent.

ILLUSTRATIONS.

(*a*) A bequeaths to B his lands at Klang, which at the date of the will and at the death of A were subject to a charge for $10,000. The executor assents to the bequest on condition that B shall within a limited time pay the amount due on the charge at the testator's death. The amount is not paid. There is no assent.

(*b*) The executor assents to a bequest on condition that the legatee shall pay him a sum of money. The payment is not made. The assent is nevertheless valid.

Assent of executor to his own legacy.

117. (i) When the executor is a legatee, his assent to his own legacy is necessary to complete his title to it in the same way as it is necessary when the bequest is to another person, and his assent may in like manner be express or implied.

(ii) Assent shall be implied if in his manner of administering the property he does any act which is referable to his character of legatee and is not referable to his character of executor.

ILLUSTRATION.

An executor takes the rent of a house or the interest of municipal securities bequeathed to him and applies it to his own use. This is assent.

Effect of executor's assent.

118. The assent of the executor to a legacy gives effect to it from the death of the testator.

ILLUSTRATIONS.

(*a*) A legatee sells his legacy before it is assented to by the executor. The executor's subsequent assent operates for the benefit of the purchaser and completes his title to the legacy.

(*b*) A bequeaths $1,000 to B with interest from his death. The executor does not assent to this legacy until the expiration of a year from A's death. B is entitled to interest from the death of A.

Time for payment of legacies.

119. An executor is not bound to pay or deliver any legacy until the expiration of one year from the testator's death.

ILLUSTRATION.

A by his will directs his legacies to be paid within six months after his death. The executor is not bound to pay them before the expiration of a year.

CHAPTER X.

PAYMENT AND APPORTIONMENT OF ANNUITIES.

Commencement of annuity when no time fixed by will.

120. Where an annuity is given by the will and no time is fixed for its commencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event.

When annuity, to be paid quarterly, or monthly, first falls due.

121. Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death and shall, if the executor think fit, be paid when due; but the executor shall not be bound to pay it till the end of the year.

Date of successive payments when first payment directed to be made within given time or on day certain.

122. (i) Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments shall be made on the anniversary of the earliest day on which the will authorizes the first payment to be made.

(ii) If the annuitant dies in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative.

Chapter XI.

INVESTMENT OF FUNDS TO PROVIDE FOR LEGACIES.

Investment of sum bequeathed where legacy, not specific, given for life.

123. Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in securities of one of the classes enumerated in sub-section (ii) of Section 109 of "The Companies Enactment, 1917," or in such other securities, or securities of such other classes, as the Judicial Commissioners or any two of them, of whom the Chief Judicial Commissioner shall be one, may from time to time by notification in the *Gazette* prescribe, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

Investment of general legacy, to be paid at future time.

124. (i) Where a general legacy is given to be paid at a future time, the executor shall invest a sum sufficient to meet it in any of the securities referred to in, or prescribed from time to time under, Section 123.

(ii) The intermediate interest shall form part of the residue of the testator's estate.

Where no fund charged with or appropriated to annuity.

125. Where an annuity is given and no fund is charged with its payment or appropriated by the will to answer it, an English or Indian Government annuity of the specified amount shall be purchased ; provided that if no such annuity can conveniently be obtained, then a sum sufficient to produce the annuity shall be invested for that purpose in any of the securities referred to in, or prescribed from time to time under, Section 123.

Transfer to residuary legatee subject to contingent bequest.

126. Where a bequest is contingent, the executor is not bound to invest the amount of the legacy but may transfer the whole residue of the estate to the residuary legatee (if any) on his giving sufficient security for the payment of the legacy if it shall become due.

Investment of residue bequeathed for life, with direction to invest in specified securities.

127. Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

Time and manner of conversion and investment.

128. (i) Such conversion and investment as are contemplated by the last preceding section shall be made at such times and in such manner as the executor in his discretion thinks fit.

(ii) Until such conversion and investment shall be completed, the person who would be for the time being entitled to the income of the fund when so invested shall receive interest at the rate of six per cent. per annum upon the market value (to be computed

as of the date of the testator's death) of such part of the fund as shall not yet have been so invested.

Where minor entitled to immediate payment of bequest.

129. (i) Where a legatee entitled by the terms of the bequest to the immediate payment or possession of the money or thing bequeathed is a minor, and there is no direction in the will to pay it to any person on his behalf, the executor or administrator shall pay or deliver the same into the Court at the place where the probate was, or letters of administration with the will annexed were, granted, to the account of the legatee and such payment into Court shall be a sufficient discharge for the money so paid.

(ii) Such money, when paid in, shall be invested in any of the securities referred to in, or prescribed from time to time under, Section 123, which securities, with the interest thereon, shall be transferred to the person entitled thereto, or otherwise applied for his benefit as the Court may direct.

Chapter XII.

PRODUCE AND INTEREST OF LEGACIES.

Legatee's title to produce of specific legacy.

130. The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death.

Exception.—A specific bequest contingent in its terms does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy. The clear produce of it forms part of the residue of the testator's estate.

Illustrations.

(*a*) A bequeaths his flock of sheep to B. Between the death of A and delivery by his executor the sheep are shorn, or some of the ewes produce lambs. The wool and lambs are the property of B.

(*b*) A bequeaths his municipal securities to B but postpones the delivery of them till the death of C. The interest which falls due between the death of A and the death of C belongs to B and must, unless he is a minor, be paid to him as it is received.

(*c*) The testator bequeaths all his four per cent. Indian Government promissory notes to A when he shall complete the age of 21. A, if he complete that age, is entitled to receive the notes, but the interest which accrues in respect of them between the testator's death and A's completing 21 forms part of the residue.

Residuary legatee's title to produce of residuary fund.

131. The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death.

Exception.—A general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy. Such income goes as undisposed of.

Illustrations.

(*a*) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 21. The income from the testator's death belongs to A.

(*b*) The testator bequeaths the residue of his property to A when he shall complete the age of 21. A, if he complete that age, is entitled to receive the residue. The income which has accrued in respect of it since the testator's death goes as undisposed of.

132. Where no time has been fixed for the payment of a general legacy, interest begins to run from the expiration of one year from the testator's death. Interest when no time fixed for payment of general legacy.

Exceptions.—(1) Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(2) Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy bears interest from the death of the testator.

(3) Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest runs from the death of the testator.

133. Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate. Interest when time fixed.

Exception.—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, and the legatee is a minor, the legacy bears interest from the death of the testator, unless a specific sum is given by the will for maintenance, or unless the will contains a direction to the contrary.

134. The rate of interest shall be six per cent. per annum. Rate of interest.

135. No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the will for making the first payment of the annuity. No interest on arrears of annuity within first year after testator's death.

136. Where a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator. Interest on sum to be invested to produce annuity.

Chapter XIII.

THE REFUNDING OF LEGACIES.

137. An executor who has paid a legacy under the order of the Court is entitled to call upon the legatee to refund in the event of the assets proving insufficient to pay all the legacies. Refund of legacy paid under Court's order.

138. When an executor has voluntarily paid a legacy, he cannot call upon a legatee to refund in the event of the assets proving insufficient to pay all the legacies. No refund if paid voluntarily.

139. (i) When the time prescribed by the will for the performance of a condition has elapsed without the condition having been performed and the executor has thereupon, without fraud, distributed the assets, in such case, if further time has under subsection (ii) been allowed for the performance of the condition and the condition has been performed accordingly, the legacy cannot be claimed from the executor, but those to whom he has paid it are liable to refund the amount. Refund when legacy becomes due on performance of condition within further time allowed.

(ii) Where the will requires an act to be performed by the legatee within a specified time, either as a condition to be fulfilled before the legacy is enjoyed or as a condition upon the non-fulfilment of which the subject-matter of the bequest is to go over to another

person or the bequest is to cease to have effect, the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as is requisite to make up for the delay caused by such fraud.

When each legatee liable to refund in proportion.

140. When the executor has paid away the assets in legacies and is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

Distribution of assets.

141. (i) Any executor or administrator, after giving notice in the most public manner reasonably possible, as, for instance, by the publication of notices in newspapers likely to be seen by creditors, by the distribution of handbills in Asiatic languages, or in other manner reasonably likely to attract the attention of creditors and others, calling upon all concerned to send in to him their claims against the estate of the deceased and stating his intention to proceed to a distribution of assets on and after a certain date, of which not less than three months' notice shall be given, shall, at the expiration of the time so named, be at liberty to distribute the assets, or any part thereof, in discharge of such lawful claims as he knows of and shall not be liable for the assets so distributed to any person of whose claim he has not had notice at the time of such distribution.

(ii) Nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

Creditor may call upon legatee to refund.

142. A creditor who has not received payment of his debt may call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies, and whether the payment of the legacy by the executor was voluntary or not.

When legatee unsatisfied or compelled to refund cannot oblige one paid in full to refund.

143. If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under the last preceding section, cannot oblige one who has received payment in full to refund, whether the legacy was paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

When unsatisfied legatee must first proceed against executor, if solvent.

144. If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy must, before he can call on a satisfied legatee to refund, first proceed against the executor if he is solvent; but if the executor is insolvent or not liable to pay, the unsatisfied legatee can oblige each satisfied legatee to refund in proportion.

Limit of refund by one legatee to another.

145. The refunding by one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered.

ILLUSTRATION.

A has bequeathed $240 to B, $480 to C, and $720 to D. The assets are only $1,200 and if properly administered would give $200 to B, $400 to C, and $600 to D. C and D have been paid their legacies in full, leaving nothing to B. B can oblige C to refund $80 and D to refund $120.

Refund to be without interest.

146. The refunding shall in all cases be without interest.

Residue after usual payments to be paid to residuary legatee.

147. The surplus or residue of the deceased's property, after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the will.

Transfer of assets from Federated Malay States to executor or administrator in country of domicile for distribution.

148. Where

(*a*) a person not having his domicile in the Federated Malay States has died leaving assets both in the Federated Malay States and in the country in which he had his domicile at the time of his death, and

(*b*) there has been a grant of probate or letters of administration in the Federated Malay States with respect to the assets there and a grant of probate or letters of administration in the country of domicile with respect to the assets in that country,

the executor or administrator, as the case may be, in the Federated Malay States, after having given such notice as is mentioned in Section 141 and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of the Federated Malay States who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.

Chapter XIV.

LIABILITY OF AN EXECUTOR OR ADMINISTRATOR FOR DEVASTATION.

Misapplication of estate.

149. When an executor or administrator misapplies the estate of the deceased or subjects it to loss or damage, he is liable to make good the loss or damage so occasioned.

Illustrations.

(*a*) The executor pays out of the estate an unfounded claim. He is liable to make good the loss caused by the payment.

(*b*) The deceased had a valuable lease renewable by notice, which the executor neglects to give at the proper time. The executor is liable to make good the loss caused by the neglect.

(*c*) The deceased had a lease of less value than the rent payable for it but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

Neglect to get in any part of property.

150. When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

Illustrations.

(*a*) The executor absolutely releases a debt due to the deceased from a solvent person, or compounds with a debtor who is able to pay in full. The executor is liable to make good the amount so lost.

(*b*) The executor neglects to sue for a debt till the debtor is able to plead the law for the limitation of suits, and the debt is thereby lost to the estate. The executor is liable to make good the amount of the debt.

Chapter XV.

RE-SEALING OF PROBATES AND LETTERS OF ADMINISTRATION GRANTED UNDER STATE LAWS.

Power of Court to re-seal.

151. Where probate or letters of administration in respect of the estate of a deceased person has or have been granted by a competent Court of any State of the Federated Malay States before the commencement of this Enactment, such probate or letters of administration may, on being produced to the Court, be sealed with the seal of the Supreme Court of the Federated Malay States and thereupon shall be of the like force and effect and have the same operation throughout the Federated Malay States as if granted under this Enactment.

Application to be by petition.

152. Applications for sealing probates or letters of administration under this Chapter shall be by petition, verified by affidavit, and may be made by the executors or administrators or one or more of them or by the recognized agent (within the meaning of Section 35 of "The Civil Procedure Code, 1918") of them or of one or more of them, either in person or through an advocate and solicitor of the Supreme Court.

Stamp law.

153. The provisions of the Stamp Enactments, 1897, of the several States in relation to duties on estates of deceased persons (including the penal provisions thereof) shall, so far as relates to property of the deceased person situate outside the jurisdiction of the Court by which the probate or letters of administration produced, or any other probate or letters of administration, was or were granted, apply as if the person who applies for sealing under this Chapter were a person applying for probate or letters of administration.

Certified copy of probate, etc., of same effect as original.

154. For the purposes of Section 151 a copy of any probate or letters of administration certified as correct by or under the authority of the Supreme Court shall have the same effect as the original.

Evidence to be produced to Supreme Court before sealing.

155. The Supreme Court shall, before sealing a probate or letters of administration under this Chapter,

(*a*) require production of a certificate under the hand of the Registrar or an Assistant Registrar or Deputy Registrar that all affidavits required by the provisions of Section 153 for Collectors of stamp duties have been duly delivered and that such affidavits, if liable to stamp duty, were duly stamped ;

(*b*) be satisfied, in the case of letters of administration, if security is required by law to be given, that security has been given in a sum which is in the opinion of the Court sufficient.

Bond.

156. On application to seal letters of administration, the administrator, not being an Official Administrator or Official Trustee as referred to in Section 82, shall give a bond to the Registrar of the Supreme Court, to enure for the benefit of the Registrar for the time being, with one or more surety or sureties, to cover such property of the deceased as is referred to in Section 153. The provisions of Sections 82, 83, and 84 shall be deemed to apply to any such bond.

Chapter XVI.

RE-SEALING OF PROBATES AND LETTERS OF ADMINISTRATION GRANTED IN THE STRAITS SETTLEMENTS AND ELSEWHERE.

Interpretation.

157. In this Chapter

"British Court in a foreign country" means any British Court having jurisdiction out of the dominions of His Britannic Majesty in pursuance of an Order of His said Majesty in Council, whether made under any Act or otherwise;

"British Possession" includes any part of a British possession having a separate legislature;

"Malay State not included in the Federation" includes the States of Johore, Kedah, Perlis, Kelantan, Trengganu, and Brunei;

"Court of Probate" means any Court or authority, by whatever name designated, having jurisdiction in matters of probate;

"Probate" and "Letters of Administration" include confirmation in Scotland and any instrument having in the United Kingdom or in a British possession the same effect which, under the law of the Federated Malay States, is given to probate and letters of Administration, respectively;

"Registrar" includes, except in Section 168, an Assistant Registrar or Deputy Registrar;

"United Kingdom" means the United Kingdom of Great Britain and Ireland.

Application of Chapter.

158. (i) This Chapter shall apply to the Colony of the Straits Settlements.

(ii) The Chief Secretary to Government may, on being satisfied that the legislature of the United Kingdom or of any other British possession or of any Malay State not included in the Federation has made adequate provision for the recognition therein of probates and letters of administration granted by the Supreme Court, direct by Order that this Chapter shall, subject to any exceptions and modifications specified in the Order, apply to the United Kingdom or to that possession or Malay State, as the case may be, and thereupon, while the Order is in force, this Chapter shall apply accordingly.

(iii) Every Order made by the Chief Secretary to Government under this Chapter shall be laid on the table of the Federal Council, as soon as may be after it is made, and shall be published in the *Gazette*.

(iv) The Chief Secretary to Government may revoke or alter any Order previously made by him under this Chapter.

Power of Court to re-seal.

159. Where a Court of Probate in a place to which this Chapter applies has granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters of administration so granted may, on being produced to and a copy thereof deposited in the Supreme Court, be sealed with the seal of the Supreme Court and thereupon shall be of the like force and effect and have the same operation in the Federated Malay States

as if granted by the Supreme Court to the person by whom or on whose behalf the application for sealing was made.

Application to British Courts in foreign countries.

160. This Chapter shall, when applied to the United Kingdom, extend to authorize the sealing in the Federated Malay States of any probate or letters of administration granted by a British Court in a foreign country in like manner as it authorizes the sealing of a probate or letters of administration granted in the United Kingdom, or in a British possession to which this Chapter applies, and the provisions of this Chapter shall apply accordingly with the necessary modifications.

Application to probates, etc., already granted.

161. Subject to the provisions of any Order made under Section 158, this Chapter shall apply to probates and letters of administration granted in any place to which this Chapter applies, whether the same were granted before or after the commencement of this Enactment.

Application to be by petition.

162. (i) Applications for sealing probates or letters of administration under this Chapter shall be by petition, verified by affidavit, and may be made by the executors or administrators or one or more of them or by the attorney (duly authorized for the purpose) of them or of one or more of them, either in person or through an advocate and solicitor of the Supreme Court.

(ii) When application to seal a probate or letters of administration is made after a lapse of three years from the death of the deceased, the petition shall contain a statement of the reason of such delay. Should such statement be unsatisfactory, such further proof of the cause of such delay shall be required by the Court as it thinks fit.

(iii) The person who applies for sealing under this section shall on making such application file in Court an address for service, not being more than two miles distant from the Court-house, where summonses, notices, and other documents relating to the estate of the deceased person may be left, and every such summons, notice, or other document so left shall be deemed to have been duly served upon the executor or administrator (as the case may be) by or on behalf of whom such application is made.

Stamp law.

163. The provisions of the Stamp Enactments, 1897, in relation to duties on estates of deceased persons (including the penal provisions thereof), shall apply as if the person who applies for sealing under this Chapter were a person applying for probate or letters of administration.

Duplicate or certified copy of probate, etc., of same effect as original.

164. (i) For the purposes of Section 159 a duplicate of any probate or letters of administration sealed with the seal of the Court granting the same, or a copy thereof certified as correct by or under the authority of the Court granting the same, shall have the same effect as the original.

(ii) The copy of the probate or letters of administration, required by Section 159 to be deposited in the Supreme Court, shall be annexed to the petition and verified by the affidavit, and shall include copies of all testamentary papers admitted to probate.

Evidence to be produced to Supreme Court before sealing.

165. (i) The Supreme Court shall, before sealing a probate or letters of administration under this Chapter,

(*a*) require production of a certificate under the hand of the Registrar that the affidavit for the Collector of stamp duties has been delivered and that such affidavit, if liable to stamp duty, was duly stamped ;

(*b*) be satisfied in the case of letters of administration, if security is required by law to be given, that security has been given in a sum sufficient in amount to cover the property (if any) in the Federated Malay States to which the letters of administration relate ; and

may require such evidence (if any) as it thinks fit as to the domicile of the deceased person, and as to the place where he has resided, or carried on business, during the twelve months before his death.

(ii) If it should appear that the deceased was not at the time of death domiciled within the jurisdiction of the Court from which the grant issued, the seal shall not be affixed, unless the grant is such as would have been made by the Supreme Court.

Debts due to creditors in the Federated Malay States.

166. (i) The Court may also, if it thinks fit, on the application of any creditor or, if the deceased has resided or carried on business in the Federated Malay States within twelve months before his death, of its own motion require, before sealing, that adequate security be given for the payment of debts due from the estate to creditors residing in the Federated Malay States.

(ii) Applications under this section may be made *ex parte* by summons in Chambers, or in writing to the Registrar, but it may in any case be directed that such application be made by summons in Chambers to be served on the person applying for sealing.

Notice by creditor to Registrar.

167. Any creditor in the Federated Malay States of any person, who dies leaving property in the Federated Malay States, may give notice in writing to the Registrar, requiring notice to be given to such creditor of any application for sealing under this Chapter. A note of such notice in writing shall be made by the Registrar in a book to be kept for that purpose, and no probate or letters of administration relating to the estate of such deceased person shall be sealed without seven days' previous notice of the application for sealing being given by the applicant to such creditor.

Bond.

168. On application to seal letters of administration, the administrator, not being an Official Administrator or Official Trustee as referred to in Section 82, or his attorney shall give a bond to the Registrar, to enure for the benefit of the Registrar for the time being, with one or more surety or sureties, to cover the property of the deceased within the jurisdiction of the Court. The provisions of Sections 82, 83, and 84 shall be deemed to apply to any such bond.

Memorandum on probate, etc.

169. On sealing the probate or letters of administration the Registrar shall write thereon a memorandum in the following words or to the following effect :

Sealed with the seal of the Supreme Court of the Federated Malay States this day of , 19 .

Probate 19 , No. .

(*Registrar.*)

Notice of sealing.

170. Notice of the sealing in the Federated Malay States of a probate or letters of administration under this Chapter shall be forthwith sent by the Registrar to the Court from which the probate or letters of administration issued.

Notice of revocation of probate, etc., re-sealed elsewhere.

171. When intimation has been received of the re-sealing of any probate or letters of administration issued in the Federated Malay States, notice of the revocation of, or any alteration in, such probate or letters of administration shall be forthwith sent by the Registrar to the Court by the authority of which such re-sealing was effected.

Chapter XVII.

MISCELLANEOUS.

Provisions applied to a lministrator with will annexed.

172. In Chapters IX, X, XI, and XIII of this Enactment the provisions as to an executor shall apply also to an administrator with the will annexed.

Saving clause.

173. Nothing contained in this Enactment shall—

(*a*) validate any testamentary disposition which would otherwise have been invalid ;

(*b*) invalidate any such disposition which would otherwise have been valid ;

(*c*) deprive any person of any right of maintenance to which he would otherwise have been entitled ;

(*d*) affect the provisions of any Enactment in force for the time being to facilitate succession to the land of deceased persons ;

(*e*) affect the provisions of Chapter VI of the Stamp Enactments, 1897, relating to duties on estates of deceased persons ; or

(*f*) affect any rules of Muhammadan law as varied by local custom in respect of the distribution of the balance of the estate of a deceased person after the debts have been satisfied.

Executor or administrator acting on order of Court.

174. (i) An executor or administrator, acting upon any order or direction made or given by the Court under the provisions of Section 481 of "The Civil Procedure Code, 1918," shall be deemed, so far as regards his own responsibility, to have discharged his duty as such executor or administrator in the subject matter of the said application, unless he has been guilty of fraud or wilful concealment or misrepresentation in connection with the obtaining of such order or direction.

(ii) This section applies to executorships and administratorships constituted or created either before or after the commencement of this Enactment.

Provisoin relating to the Stamp Enactments, 1897.

175. All immovable property situate in, and all things to be done in, the Federated Malay States which is or are under the provisions of the Stamp Enactments, 1897, required to be included in the affidavit for the Collector on application for a grant of probate or

letters of administration shall, for the purposes of such affidavit and of the provisions of the said Enactments relative thereto, be deemed to be situate in, and to be things to be done in, the State wherein the application for probate or letters of administration is made; and all debts due from the deceased to persons resident in the Federated Malay States whereof a schedule might, if such persons were resident in the State wherein the said application is made, be delivered with or annexed to the affidavit for the Collector may be included in a schedule to be so delivered or annexed in the same manner and with the same effect as if such persons were resident in such State.

FIRST SCHEDULE.

State.	No. and year.	Short title.
Perak	4 of 1904	The Probate and Administration Enactment, 1904
Selangor ..	4 of 1904	Do.
N. Sembilan ..	3 of 1904	Do.
Pahang ..	3 of 1904	Do.

SECOND SCHEDULE.

State.	No. and year.	Short title.
Perak	5 of 1905	The Official Administrator's Enactment, 1905
Selangor ..	7 of 1905	Do.
N. Sembilan ..	6 of 1905	Do.
Pahang ..	6 of 1905	Do.

ENACTMENT NO. 7 OF 1920.

An Enactment to provide for the admission of persons into and their departure from the Federated Malay States.

L. N. GUILLEMARD,
President of the Federal Council.

[8th May, 1920.
2nd July, 1920.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Passport Enactment, 1920," and shall come into force on the publication thereof in the *Gazette*.

Power to make Regulations.

2. (i) The Chief Secretary to Government may make regulations

(*a*) prohibiting any person or class of persons from entering or leaving the Federated Malay States by land, sea, or air without the production of a passport or other specified document of a similar kind ;

(*b*) enforcing such prohibition by requiring answers to enquiries, or by the arrest, detention, or search of any such persons ;

(*c*) prescribing the fees to be charged ;

(*d*) prescribing punishments of imprisonment or fine or both for breach of any such Regulation ; and

(*e*) prescribing any other matters, whether similar or not to those above mentioned, as to which regulations may be necessary or desirable in order to effectually provide for the issue of passports or other specified documents of a similar kind, and for matters connected therewith.

(ii) Such regulations when published in the *Gazette* shall have the force of law.

Repeal.

3. Article 30 of the second schedule of the Enactments mentioned in the Schedule hereto is repealed.

SCHEDULE.

State.	No. and year.	Short title.
Perak	14 of 1897	Stamp Enactment, 1897
Selangor	14 of 1897	Do.
Negri Sembilan	10 of 1897	Do.
Pahang	20 of 1897	Do.

ENACTMENT NO. 9 OF 1920.

An Enactment to provide for the control of Rivers and Streams.

L. N. Guillemard, *President of the Federal Council.*

[18th September, 1920. 1st October, 1920.]

It is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and construction.

1. (i) This Enactment may be cited as " The Waters Enactment, 1920," and shall come into force on the publication thereof in the *Gazette*.

(ii) Nothing in this Enactment shall affect the provisions of any other Enactment and no prohibition or restriction in this Enactment contained shall apply to the Government of the Federated Malay States or of any of them or to the agents or servants of any of the said Governments.

Interpretation.

2. In this Enactment, unless the context otherwise requires,

" District Officer " includes, in relation to any district where there is no District Officer, any officer nominated by the Resident of the State wherein such district is situate by notification in the *Gazette* to exercise the powers of a District Officer under this Enactment ;

" River " includes

(*a*) a tributary of a river and any other stream or natural water-course, and

(*b*) any canal declared by the Chief Secretary to Government by notification in the *Gazette* to be subject to the provisions of this Enactment ;

" State land " and " alienated land " have the meanings borne by those expressions, respectively, in " The Land Enactment, 1911."

CONTROL OF RIVERS AND STREAMS.

Property in rivers.

3. Subject to the terms of any express grant made by or on behalf of the Ruler of a State, the entire property in and control of all rivers in any State is and shall be vested solely in the Ruler of such State ; provided that in the case of lands held by a Government Department under grant or lease or reserved for a public purpose and maintained by a Government Department, such control may be exercised by the Head of such Department under the direction of the Resident of such State.

Restoration of river banks.

4. Any person who shall in any State interfere with the bank of any river may by written order under the hand of the Resident of such State be required to restore the same to the condition in which it was immediately prior to such interference or to remake the same in such manner as may be specified in such order.

Prohibition of acts affecting rivers, except under license.

5. (i) No person shall, except under and in accordance with the terms of a license under this Enactment,

(*a*) fell any tree so that it falls into a river;

(*b*) in any manner obstruct or interfere with any river;

(*c*) build any bridge, jetty, or landing stage (other than a bath-house) over or beside any river at a point where the width of such river exceeds twenty feet.

(ii) Licenses to do in any district any of the acts specified in sub-section (i) may be issued by the District Officer of such district with the approval, in each case, of the Resident; any such license may be subject to such conditions and restrictions as the Resident approves; all such conditions and restrictions shall be set out in the license.

Presumptions.

6. Where the bank of a river is interfered with, or where any felling, obstruction, interference, or building takes place in contravention of Section 5, the owner and the occupier of the land wherein the bank so interfered with or any part thereof is included and the owner and occupier of the land whereon such tree was felled or which is nearest to such obstruction, interference, or building shall in any proceedings under this Enactment be presumed, in the absence of proof to the contrary, to have interfered with the bank, or effected the felling, obstruction, interference, or building, as the case may be.

Prohibition of diversion of water from rivers, except under license.

7. (i) Save as may be expressly authorized under the provisions of any other law no person shall, except under and in accordance with the terms of a license under this Enactment, by means of any ditch, drain, channel, pipe, or otherwise divert water of any river from its natural course.

(ii) Whenever any such diversion shall have been made, the occupier or occupiers of the lands (if any) benefited by such diversion shall, in the absence of proof to the contrary, be presumed to have made it.

(iii) Licenses to divert water from a river in any State for use in the generation of electricity may be granted by the Resident of such State.

(iv) Licenses to divert water from a river in any district for use:

(*a*) for private or domestic purposes,

(*b*) in the cultivation of rice,

(*c*) for industrial and other purposes,

may be granted by the District Officer of such district with the approval, in each case falling under heading (*a*) or heading (*c*) of this sub-section, of the Resident.

(v) Every license granted under this section shall set out the purpose for which the same is granted and shall be for such period and subject to such conditions and restrictions as may be stated therein.

License to divert water may authorize interference with State land or alienated land.

8. (i) A license under this Enactment to divert water from a river in any State may extend to authorizing the licensee to erect, cut, or construct and maintain upon or through any State lands or alienated lands specified in that behalf in the license any pump, line of pipes, flume, race, drain, dam, or reservoir and, subject to

such conditions and restrictions as may be specified in the license, to take and use the water therefrom in such quantities and in such manner as in the opinion of the Resident of such State may be necessary for carrying out the purpose of the license.

(ii) A licensee so authorized as aforesaid may enter upon the State lands or alienated lands so specified as aforesaid for the purposes expressed in such license and carry out all or any of the works thereby sanctioned and exercise all or any of the rights thereby granted ; provided that he shall be liable to make compensation to the owner or lawful occupier of any alienated land upon which such work shall be carried out or such rights exercised.

Revocation and alteration of licenses.

9. (i) There shall be power at any time (*a*) without cause assigned to revoke or alter, or to vary the period, terms, or conditions of, any license granted under this Enactment upon payment to the licensee of compensation for any damage which he may sustain in respect of such revocation, alteration, or variation ; (*b*) to revoke without compensation any license on breach by the licensee of any condition or restriction to which the license is subject or on conviction of the licensee of any offence punishable under this Enactment.

(ii) The power in sub-section (i) referred to may in the case of a license granted by the Resident be exercised by the Resident and in the case of a license granted by a District Officer be exercised by the District Officer ; provided that in the case of a license to the granting whereof the approval of the Resident is required, such approval shall also be necessary to the exercise by a District Officer of the power in sub-section (i) referred to.

Assessment of compensation.

10. The amount of any compensation payable under either of the two last preceding sections shall, if not settled by agreement between the parties concerned, be assessed in the manner provided by Part VII of " The Land Enactment, 1911."

Record of license on titles affected.

11. Where alienated land is affected by any authority under Section 8 contained in a license to divert water from a river, the Collector or Registrar of Titles, as the case may be, having custody of the Register wherein the title to such land is recorded shall, on production to him of such license, make in the said Register an entry of the grant of the license and of the period thereof and shall certify on the license that such entry has been made and shall on proof to his satisfaction of the revocation of any license whereof an entry has been made as aforesaid make in the said Register an entry of such revocation.

Fees and rents in respect of licenses.

12. (i) There shall be payable in respect of every license under this Enactment in any State such fee and annual rent (if any) as may be prescribed or if no fee or annual rent be prescribed then such fee and annual rent (if any) as the Resident of such State imposes.

(ii) The amount of such fee and rent, with the date on which the rent falls due year by year, shall be set out in the license.

(iii) Any license in respect whereof the rent shall remain unpaid for sixty days after the same falls due may without notice to the licensee be revoked and no compensation shall be payable in respect of such revocation.

Liability for damage.

13. No license under this Enactment shall exempt any person from liability in respect of any damage occasioned by such person to the property of the Government or of any person.

Restriction on construction of walls and buildings on banks of rivers or within flood channels.

14. (i) Save as may be expressly authorized under the provisions of any other law no person shall in any State after the commencement of this Enactment erect or build any wall or construct any revetment along the bank of any river or erect any building or structure within fifty feet of any such bank, or within any flood channel declared under this section, except under and in accordance with the terms of a written permission in that behalf from the Resident of the State ; any such permission may be subject to such conditions and restrictions as the Resident thinks fit to impose.

(ii) Where the Resident of a State is satisfied that the bed of any river in such State is insufficient to contain the waters thereof in time of such floods as may reasonably be expected, he may by notification in the *Gazette* declare any land abutting on such river and extending to such a distance from either or both banks as may be specified in such notification to be a flood channel for such river, and may at any time in like manner revoke or vary any such declaration.

(iii) The District Officer or any person authorized thereto by him in writing may enter upon and inspect any buildings or premises to which a permission given under sub-section (i) relates.

(iv) Any person who shall contravene the provisions of this section shall be guilty of an offence and liable on conviction before the Court of a Magistrate of the First Class to be sentenced by such Court to a fine not exceeding two thousand dollars ; and any building or construction built or erected in contravention of this section may be removed by order of the Resident and the cost of such removal shall be recoverable from such person by the Resident, or any person authorized in that behalf by the Resident, by civil suit.

(v) Nothing in this section shall be deemed to apply to any wall, revetment, building, or structure in existence or in course of construction at the commencement of this Enactment or to the renewal or repair thereof.

Penalties ; sanction for prosecution.

15. (i) Any person who shall fail to obey any order given under Section 4 shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred dollars and additionally on conviction to a fine not exceeding ten dollars a day for every day during which such disobedience shall continue.

(ii) Any person who shall contravene the provisions of Section 5 or Section 7 shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand dollars.

(iii) No prosecution shall be instituted in respect of any offence punishable under this section except with the written sanction of the District Officer of the district wherein the offence is alleged to have been committed.

(iv) Where a conviction is had before the Court of a Magistrate of the First Class of any offence referred to in sub-section (i) or sub-section (ii), such Court may impose any penalty provided by this Enactment.

16. (i) Where in any State any person interferes with the bank of a river or contravenes the provisions of Section 5 or Section 7, the Resident of such State may do and cause to be done all such things as may in his opinion be necessary or expedient for remedying such interference or contravention or the results thereof, and the cost thereby incurred shall be recoverable from such person by the Resident, or any person authorized in that behalf by the Resident, by civil suit. Power to put a stop to and remedy illegal acts.

(ii) In amplification and not in derogation of the generality of the foregoing powers the Resident may cause the bank of any river which has been interfered with to be restored or remade, any tree, which on being felled has fallen into a river, or any obstruction in or interference with a river, or any bridge, jetty, or landing stage (other than a bath-house) over or beside any river to be removed or destroyed, and any ditch, drain, channel, pipe, or other means of diverting the water of any river from its natural course to be filled in, closed, destroyed, or removed.

(iii) For the purpose of any work or thing about to be or being carried out or done under the provisions of this section, entry may be made upon any land owned or occupied by any person whose interference with the bank of a river or contravention of the provisions of Section 5 or Section 7 has given occasion for such work or thing; provided that nothing herein contained shall authorize entry into any dwelling-house and that before entry upon land owned or lawfully occupied by any person not less than twenty-four hours previous notice in writing shall, except in any case where the Resident otherwise directs, be given to such owner or occupier.

(iv) Nothing in this section contained shall affect any liability of any person to prosecution and punishment under Section 15.

17. For the purposes of this Enactment every person shall be liable for every act and omission of any agent or servant employed by him and acting within the scope of such employment in the same manner and to the same extent as if such act or omission were done or committed by such first mentioned person; but so that nothing in this section shall affect the liability of such agent or servant. Liability of employer.

18. (i) In any State the Resident may from time to time, with the approval of the Chief Secretary to Government, make rules, not inconsistent with this Enactment, Rules.

(*a*) to prescribe fees and annual rents payable in respect of licenses granted under this Enactment,

(*b*) to restrict to particular areas or rivers the issue by District Officers of licenses, or specified kinds of licenses under Section 5 and Section 7;

(*c*) generally for the purpose of carrying into effect the provisions and purposes of this Enactment.

(ii) All such rules shall be published in the *Gazette* and shall thereupon have the force of law.

ENACTMENT NO. 13 OF 1920.

An Enactment to consolidate and amend the Law with respect to the Registration of Births and Deaths.

L. N. GUILLEMARD, *President of the Federal Council.* [18th September, 1920.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as " The Births and Deaths Registration Enactment, 1920," and shall come into force upon such date as the Chief Secretary to Government may by notification in the *Gazette* appoint.

(ii) Upon the coming into force of this Enactment the Enactments specified in the schedule shall be repealed.

(iii) All appointments and rules made under any Enactment hereby repealed which were in force immediately prior to the commencement of this Enactment shall be deemed to have been made under this Enactment, but so that the operation thereof shall not be thereby extended.

Interpretation.

2. In this Enactment, unless the context otherwise requires—

Words referring to burial of bodies shall be deemed to include burning of bodies ;

" House " includes a public institution ;

" Public institution " includes prison, lock-up, lunatic asylum, hospital, and any other public or charitable institution ;

" Occupier " includes the keeper, master, matron, superintendent, or other chief resident officer of every public institution, and where a house is let in separate apartments or lodgings includes any person residing in such house who is the person under whom such lodgings or separate apartments are immediately held or his agent ;

" Registered Medical Practitioner " means any person whose name is included in the latest list of registered Medical Practitioners published in the *Gazette* under the provisions of " The Medical Registration Enactment, 1907 " ;

" Registration area " means the area for which a Registrar or Deputy Registrar is appointed.

Appointment of officers.

3. (i) The Chief Secretary to Government may appoint a Registrar-General of Births and Deaths for the Federated Malay States, with necessary clerks and subordinate officers.

(ii) The Resident of each State may appoint such Registrars and Deputy Registrars of Births and Deaths for specified areas in such

State as he may think fit, with necessary clerks and subordinate officers.

Registration-books.

4. (i) The Registrar-General shall cause to be provided a sufficient number of registration-books for the record of all births and of separate registration-books for the record of all deaths, and shall, from time to time, furnish to the Registrar of each registration area, for distribution to Deputy Registrars, such registration-books as the Registrar may require.

(ii) Such registration-books shall be strongly bound books of forms, each page of which shall be furnished with a counterfoil from which it shall be detachable, by means of perforation or otherwise, the pages shall be numbered consecutively, and the number printed on each page shall be also printed on the counterfoil thereof, and each page and counterfoil of every birth registration-book shall contain identical printed headings indicating the information which is to be filled in, in the spaces provided therefor, by or on behalf of the person reporting a birth; and each page and counterfoil of every death registration-book shall contain identical printed headings indicating the information which is to be filled in, in the spaces provided therefor, by or on behalf of the person reporting a death. Such information shall, in the case of a report of a death, include, so far as possible, the name, age, sex, place of residence and birth, race, and occupation of the deceased, and in the case of an Asiatic the name of the father, the period of his continuous residence in the registration area, his last place of residence before arrival in the registration area, the duration of his illness, the date and cause of his death, and the name and qualification of the registered medical practitioner certifying the cause of the death. Subject as aforesaid the nature and form of the headings in registration-books, the language or languages in which they are to be rendered, and all other matters relating to the preparation thereof may be prescribed by rules under this Enactment.

Record of information by or on behalf of person reporting a birth or death.

5. (i) Every person reporting a birth or death to a Deputy Registrar shall, if and so far as he is able, write, in the language which he ordinarily uses and if that language be not English then also in the English language, in the appropriate spaces of the page of the registration-book placed before him for that purpose by the Deputy Registrar and also of the counterfoil of the said page all the information indicated by the printed headings appearing on the page and counterfoil. If and so far as any person so reporting is unable to write in the prescribed languages the information indicated by the said headings, he shall furnish the required information orally to the Deputy Registrar, who shall write it in the said appropriate spaces.

(ii) When the required information has been written on the page and counterfoil, the person furnishing the information shall sign his name in the appropriate place on the page and counterfoil or if he be unable to sign his name shall in lieu of signature affix the impression in ink of his right thumb which shall be witnessed by the Deputy Registrar, and thereafter the Deputy Registrar shall, in the appropriate spaces on the page and counterfoil, fill in the

date of the furnishing of the said information as the date of registration and affix his signature.

Provided that in the event of a person who is required to affix a signature or thumb impression to information recorded under this section being a woman and unable through illness or other cause to affix such signature or impression she may authorize any male relative to affix on her behalf his signature or thumb impression thereto.

(iii) Every person reporting a birth or death under the provisions of this section shall be entitled to receive free of charge a copy of the entry signed by the Deputy Registrar.

Original and duplicate registers.

6. (i) The pages of the registration-books filled in as hereinbefore provided shall constitute the original register of births and deaths, respectively, and the counterfoils of the said pages filled in as hereinbefore provided shall constitute the duplicate register of births and deaths, respectively.

(ii) The district register books containing entries made under the Enactments hereby repealed together with the alphabetical indexes thereof made under the provisions of the said Enactments shall be kept in the custody of such Registrar as the Resident in each State may direct.

Cancellation of spoiled pages.

7. Whenever any page of a registration-book, or the counterfoil of any page, in the possession of a Deputy Registrar which has not been filled in as hereinbefore provided is in the opinion of the Deputy Registrar so spoiled, defaced, or injured as to be unsuitable for record of the prescribed particulars, the Deputy Registrar shall cancel both the page and counterfoil by writing across the face of each the word "Cancelled" and affixing his signature together with the date of affixing the same.

Duty of Deputy Registrars to keep informed of births and deaths and to get the prescribed information recorded.

8. Every Deputy Registrar shall inform himself carefully of every birth and death occurring in his registration area and shall cause the prescribed information to be furnished and recorded without delay in the proper registration-book furnished to him for that purpose. In cases of death the Deputy Registrar shall, if practicable, personally inspect the corpse and make enquiries among the persons present at the death.

Disposal and custody of completed pages and counterfoils of registration-books.

9. (i) Every Deputy Registrar shall

(*a*) detach, at such intervals as may be prescribed, from their counterfoils all such pages of the registration-books in his possession as shall have been filled in as hereinbefore provided, together with those which shall have been cancelled by the Deputy Registrar, and shall forward them to the Registrar of his registration area; and

(*b*) so soon as all the pages and counterfoils of any registration-book in his possession shall have been filled in or cancelled, as hereinbefore provided, and the pages shall have been detached from their counterfoils, forward the counterfoils in their original binding to the Registrar of his registration area.

(ii) Every Registrar shall transmit, at such intervals as may be prescribed, to the Registrar-General all pages of registration-books

received by him from Deputy Registrars under paragraph (*a*) of sub-section (i), and shall keep in a suitable strong room or other safe place all bound counterfoils received by him under paragraph (*b*) of sub-section (i).

(iii) The Registrar-General shall cause the pages received by him from the Registrars under sub-section (ii) to be strongly bound from time to time in books, preserving the original sequence of the pages as indicated by the printed numbers thereon and separating, in such manner and to such extent as may be prescribed, the pages relating to one registration area from the pages relating to other registration areas, and shall keep the said pages and books in a suitable strong room or other safe place.

Inspection of registers; certified copies of entries.

10. (i) The original registers of births and of deaths respectively in the custody of the Registrar-General and the Registrars and the duplicate registers and the district registers containing entries made under the Enactments hereby repealed in the custody of the Registrars shall, on payment of the prescribed fees, be open to inspection by any person on any day, not being a Saturday, Sunday, or holiday, between the hours of ten in the forenoon and four in the afternoon and the Registrar-General and every Registrar shall, on payment of the prescribed fees, furnish to any person requiring the same a certified copy of any entry in any register in his charge.

(ii) Every copy of any entry in any register certified under the hand of the Registrar-General or of a Registrar in charge of the same for the time being to be a true copy shall, subject to the limitation in Section 15 provided, be *prima facie* evidence in all Courts and before all tribunals in the Federated Malay States of the dates and facts contained or set forth in such copy.

Yearly summary and report.

11. The Registrar-General shall, by the 1st day of March in every year, compile

(*a*) a summary of the births and deaths of the past year according to such forms as shall, from time to time, be approved by the Chief Secretary to Government, and

(*b*) a general report on the increase or decrease of the population and on any special causes appearing to affect the same, so far as the same can be gathered from the registers of births and of deaths.

The persons on whom rests the duty to report births and deaths.

12. (i) In the case of every child born alive after the commencement of this Enactment, it shall be the duty of the father and mother of the child, and of the occupier of the house in which to his knowledge the child is born, and of each person present at the birth, and of the person having charge of the child, to report such birth within fourteen days after the same shall have taken place to the Deputy Registrar of the registration area within which the birth shall have taken place and to comply with the provisions of Section 5.

(ii) Whenever the name of a child is not settled and cannot be notified to the Deputy Registrar within fourteen days of birth, the person whose duty it is to report such birth shall, so soon thereafter as the name is settled and not later than seven years thereafter, attend again at the office of the Deputy Registrar of the registration

area within which the birth took place or, if such Deputy Registrar so directs, at the office of the Registrar of the registration area and there record the name in the manner (so far as is practicable) prescribed by Section 5 for the recording of information by a person reporting a birth.

(iii) When a person dies in a house after the commencement of this Enactment, it shall be the duty of the occupier of the house in which to his knowledge the death took place, and of the nearest relatives of the deceased in attendance during his last illness, and of each person present at the death, and in default of the persons hereinbefore in this sub-section mentioned of each inmate of the house and of the person causing the body of the deceased to be buried, to report such death within twelve hours (exclusive of the time necessary for the journey and of any intervening hours of darkness) after the same shall have taken place to the Deputy Registrar of the registration area within which the death took place and to comply with the provisions of Section 5.

(iv) When a person dies in a place which is not a house, or a dead body is found elsewhere than in a house, it shall be the duty of every relative of such deceased person having knowledge of any of the particulars prescribed to be registered concerning the death, and of every person present at the death, and of any person taking charge of the body, and of the person causing the body to be buried, to report such death or finding within twelve hours (exclusive of the time necessary for the journey and of any intervening hours of darkness) after the death or the finding to the Deputy Registrar of the registration area within which the death took place or the body was found and to comply (so far as is practicable) with the provisions of Section 5 applicable to a person reporting a death.

Penalty for omission to report or furnish information within the time prescribed.

13. Any person whose duty it shall be under this Enactment to report, or furnish information as to, any birth or the name of any child or any death or the finding of any dead body and who shall, without reasonable cause, omit to do so within the time prescribed by this Enactment, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty dollars, except in any case for which a smaller penalty is provided by this Enactment.

Extended time within which information may be recorded.

14. Notwithstanding the commission by any person of such an offence as is in Section 13 referred to, a Deputy Registrar may, on payment by such person of the prescribed fee, permit the prescribed information relating to any birth or death to be recorded in the manner prescribed by Section 5 within forty-two days after the birth and within three days after the death, as the case may be.

Post registration.

15. Notwithstanding any omission to report, or furnish information as to, any birth within forty-two days or any death within three days, it shall be the duty of the Deputy Registrar to procure by all means in his power the best and most accurate information respecting any birth or death which may have occurred within his registration area and to cause the same to be recorded (so far as is practicable) in the manner prescribed by Section 5, but not until after the expiration of the time last mentioned in each case. Provided that every entry made under this section on any page of a

registration-book and on the counterfoil thereof shall be marked by the Deputy Registrar, in such manner as may be prescribed, with the words "Post Registration"; and no copy of any entry so marked shall be receivable in evidence, as prescribed in Section 10, unless the truth of the facts therein entered shall have been found by a Magistrate in a proceeding instituted before him under this section, and such Magistrate has certified his finding in the register. Such a proceeding may be instituted by any person claiming to have an interest in substantiating the record marked "Post Registration" and shall be brought by way of information and summons to be served on the Registrar calling upon him to shew cause why a certified copy of such entry should not be entitled to be received in evidence in the manner and to the extent provided by Section 10.

Duties of police officers, penghulus, and headmen.

16. (i) It shall be the duty of all police officers, penghulus, and headmen to obtain information of every birth and death within their respective areas or mukims, and also respecting the father or mother of every child born in their respective areas or mukims, and respecting the occupier of any house in their respective areas or mukims in which any birth or death may take place, and to give notice thereof to the Deputy Registrar of the registration area.

(ii) Any police officer, penghulu, or headman who, knowing such particulars, shall wilfully neglect or omit to give notice thereof to the Deputy Registrar shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five dollars.

Duty of medical practitioner as to certificate.

17. (i) It shall be the duty of every registered medical practitioner, upon the death of any person who has during his last illness been attended by such medical practitioner, to sign and deliver within twelve hours of the death to some person required by this Enactment to furnish particulars of the death or to the Deputy Registrar of the registration area within which the death took place a certificate in the prescribed form, and such person shall, when reporting or furnishing information as to the death, deliver such certificate to the Deputy Registrar.

(ii) In case any certificate under the last sub-section shall certify that the cause of death of any person has arisen from plague, cholera, small-pox, or any disease that is or shall hereafter be required to be notified to foreign countries as a dangerous infectious disease under any convention with regard to dangerous infectious diseases for the time being in force which is not known at the time to be prevalent in the State where the deceased person died it shall be lawful in any case where the Registrar-General or Registrar is not satisfied of the correctness of the diagnosis made by the registered medical practitioner for him to refuse to act upon such certificate and to refuse to register the death until a further and other opinion as to the cause of death has been given upon an examination made by a Health Officer and in every such case the cause of death that shall be entered in the register book shall be that certified by such officer.

(iii) When a registered medical practitioner has made a *post-mortem* examination of the body of any person, such medical practitioner shall, within twenty-four hours after the conclusion of

the examination, forward a certificate in the prescribed form to the Deputy Registrar of the registration area within which the death took place.

(iv) The cause of death as stated in the certificate, together with the name of the certifying medical practitioner, shall be entered on the appropriate page of the registration-book and on the counterfoil thereof.

Duty of Magistrate holding enquiry of death to forward copy of finding.

18. When an enquiry is held into the death of any person, the Magistrate holding such enquiry shall, within twenty-four hours after the conclusion thereof forward a certified copy of his finding to the Deputy Registrar of the registration area within which the death took place, and the cause of death as stated in such finding shall be entered on the appropriate page of the registration-book and on the counterfoil thereof.

Penalty for breach of Section 17 or 18.

19. Any person wilfully neglecting or omitting to comply with the provisions of Section 17 or Section 18 shall be guilty of an offence and liable, on conviction, to a fine not exceeding twenty-five dollars.

Penalty for false information, false entry, or destruction of entry.

20. Any person who shall

(*a*) wilfully make or permit to be made for the purposes of registration any false statement, or

(*b*) wilfully or knowingly furnish or permit to be furnished any false information, touching any of the particulars hereby required to be made known, or

(*c*) make or permit to be made any false entry in any registration-book or register, knowing the same to be false, or

(*d*) wilfully destroy or permit to be destroyed any entry in any registration-book or register

shall be guilty of an offence and liable, on conviction, to a fine not exceeding five hundred dollars or to imprisonment of either description for a term not exceeding twelve months or to both such fine and imprisonment.

Penalty for injury to register and for omission by Deputy Registrar to effect registration.

21. (*a*) Any person who shall wilfully or carelessly destroy, injure, mutilate, deface, or lose any registration-book or register used for the purposes of this Enactment, and

(*b*) any Deputy Registrar who shall refuse or omit without reasonable cause (the burden of proof whereof shall lie on him) to effect or secure the due registration of any birth or death within his registration area of which he shall have notice or knowledge, and

(*c*) any Registrar-General, Registrar, or Deputy Registrar who shall carelessly or wilfully allow any register or registration-book to be destroyed, injured, mutilated, defaced, or lost whilst in his custody or keeping

shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred dollars or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Authority for prosecution.

22. No prosecution for any offence under this Enactment shall be instituted except by the authority of the Public Prosecutor, the Registrar-General, or a Registrar.

23. (i) No alteration in any registration-book or register shall be made except as authorized by this section. Correction of errors.

(ii) Any clerical error which may from time to time be discovered in any such registration-book or register may be corrected by a Deputy Registrar while the counterfoil is in his possession and thereafter by the Registrar of the registration area in the manner directed by the Registrar-General.

(iii) An error of fact or substance in any such registration-book or register may be corrected by entry in the margin (without any alteration of the original entry) by the Registrar of the registration area, upon payment of the prescribed fee and upon production to him by the person requiring such error to be corrected of a statutory declaration setting forth the nature of the error and the true facts of the case, and made by two persons required by this Enactment to give information concerning the birth or death with reference to which the error has been made, or in default of such persons then by two credible persons having knowledge of the truth of the case.

(iv) Where an error of fact or substance occurs in the information forwarded by a Magistrate under Section 18 concerning a dead body upon which he has held an enquiry the Magistrate, if satisfied by evidence on oath or statutory declaration that such error exists, may certify under his hand to the Registrar of the registration area within which the death took place the nature of the error and the true facts of the case as ascertained by him on such evidence and the error may thereupon be corrected by such Registrar by entering in the margin (without any alteration of the original entry) the facts as so certified by the Magistrate.

(v) When any correction is made under the provisions of this section after the page of the registration-book has been transmitted to the Registrar-General, the Registrar shall forthwith forward the necessary information to the Registrar-General in order that the correction may be recorded in the original register.

24. Nothing in this Enactment shall apply to a still born child. Still born child.

25. (i) Subject to the provisions of this Enactment the Chief Secretary to Government may make rules in respect of all or any of the following matters : Rules.

(*a*) the form and contents of the registration-books and of any certificates, notices, or other documents required for carrying out the purposes of this Enactment ;

(*b*) the fees to be taken under this Enactment ;

(*c*) the custody of the registration-books, registers, and other documents connected with the business of registration ;

(*d*) the making of searches and the giving of certified copies ;

(*e*) the preparation and custody of indexes of matters contained in registers ;

(*f*) any other matters as to which it may be expedient to make rules for carrying into effect the objects of this Enactment.

(ii) Such rules shall be published in the *Gazette* and shall thereupon be of the same force as if they had been enacted in this Enactment.

Fees to be paid into Treasury.

26. All fees taken under this Enactment shall be paid into the Treasury for the credit of the public revenue.

SCHEDULE.

ENACTMENTS REPEALED.

State.	No. and year.	Short title.
Perak	2 of 1901	The Births and Deaths Registration Enactment, 1901
Selangor ..	1 of 1901	Do.
N. Sembilan ..	1 of 1901	Do.
Pahang ..	6 of 1897	The Registration of Births and Deaths and Notification of Sickness Enactment, 1896

ENACTMENT NO. 18 OF 1920.

An Enactment to remove doubts with regard to certain proceedings of the Federal Council of the Federated Malay States.

L. N. GUILLEMARD,
President of the Federal Council.

[30th October, 1920.
9th November, 1920.]

WHEREAS on the 28th day of July, 1920, a meeting of the Federal Council was held at which there was not present at least one member from each of the four Federated Malay States: and whereas doubts have consequently arisen as to the validity of the proceedings of the said meeting and whereas it is expedient to remove the said doubts:

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows:—

Short title and commencement.

1. This Enactment may be cited as "The Council Proceedings Validation Enactment, 1920," and shall come into force on the publication thereof in the *Gazette*.

Validation of proceedings of Council.

2. Every act or proceeding purporting to have been done or taken by the Federal Council on the 28th day of July, 1920, and every Enactment purporting to have been enacted by the said Council on the said date shall be and be deemed to have been at all times and for all purposes as valid and effectual as if there had been present at the said meeting at least one member from each of the four Federated Malay States.

ENACTMENT NO. 19 OF 1920.

An Enactment to provide for matters relating to Trustees.

L. N. GUILLEMARD, *President of the Federal Council.*

[30th October, 1920. 12th November, 1920.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

PRELIMINARY.

Short title and commencement.

1. This Enactment may be cited as "The Trustee Enactment, 1920," and shall come into force on publication thereof in the *Gazette*.

Interpretation.

2. In this Enactment, unless there is something repugnant in the subject or context—

"Charge" and "chargee" include and relate to every interest regarded in equity as merely a security for money and every person lawfully claiming under the original chargee ;

"Contingent right," as applied to land, includes a contingent or executory interest, a possibility coupled with an interest, whether the object of the gift or limitation of the interest or possibility is or is not ascertained, also a right of entry, whether immediate or future and whether vested or contingent ;

"Convey" and "conveyance" applied to any person include the execution by that person of every necessary or suitable assurance for conveying, assigning, appointing, surrendering, or otherwise transferring or disposing of land whereof he is proprietor or possessed or wherein he is entitled to a contingent right, either for his whole interest or for any less interest, together with the performance of all formalities required by law to the validity of the conveyance ;

"Instrument" includes Enactment ;

"Land" means immovable property and includes any interest therein and also an undivided share of land ;

"Lunatic" means any person found by due course of law to be of unsound mind and incapable of managing his affairs ;

"Minor" means a person who is under twenty-one years of age ;

"Pay" and "payment," as applied in relation to stocks and securities and in connection with the expression "into Court," include the deposit or transfer of the same in or into Court ;

"Person of unsound mind" means any person, not a minor, who, not being a lunatic, is incapable from infirmity of mind of managing his affairs ;

"Possessed" applies to receipt of income of, and to any vested interest less than a life interest, legal or equitable, in possession or in expectancy, in any land;

"Property" includes movable and immovable property and any interest therein and any debt and any thing in action and any other right or interest, whether in possession or not;

"Rights" include interests;

"Securities" include stocks, funds, and shares;

"Stock" includes fully paid up shares and, so far as relates to vesting orders made by the Supreme Court under this Enactment, includes any fund, annuity, or security transferable in books kept by any corporation, company, association, or society, or by instrument of transfer, either alone or accompanied by other formalities, and any share or interest therein;

"Supreme Court" includes a Judicial Commissioner;

"Transfer," in relation to stock, includes the execution and performance of every instrument, power of attorney, act, and thing on the part of the transferor to effect and complete the title in the transferee;

"Trust" and "trustee" include implied and constructive trusts and cases where the trustee has a beneficial interest in the trust property and the duties incident to the office of personal representative of a deceased person.

PART I.

INVESTMENTS.

Investments.

3. A trustee may, unless expressly forbidden by the instrument (if any) creating the trust, invest any trust funds in his hands, whether at the time in a state of investment or not, in manner following, that is to say—

(*a*) in any of the Parliamentary stocks or public funds or Government securities of the United Kingdom of Great Britain and Ireland or of British India or any British Colony or of the Federated Malay States;

(*b*) in any securities the interest on which is or shall be guaranteed by the Parliament of the said United Kingdom;

(*c*) Upon titles to immovable property in the Federated Malay States by grant in perpetuity or by lease (other than mining lease) for a term whereof one hundred years at least shall be unexpired at the time of such investment;

(*d*) upon freehold or leasehold securities in the Straits Settlements, such leasehold securities being held for a term whereof one hundred years at least shall be unexpired at the time of such investment;

(*e*) in or upon the debentures, debenture stock, or guaranteed or preference or ordinary stock or shares of any railway or other company a fixed or minimum rate of interest or dividend on which is guaranteed by the Government of the Federated Malay States or of any British Colony;

(*f*) in or upon the debentures or debenture or rent-charge stock of any railway, canal, dock, harbour, gas, water, or other company or body incorporated by special legislation of the Federated Malay States or the Straits Settlements or by charter of His Britannic Majesty;

(*g*) in or upon the guaranteed or preference stock or shares of any railway, canal. dock, harbour, gas, water, or other company which shall have paid dividends upon its ordinary capital for at least the three years last preceding the making of the advance thereon;

(*h*) in or upon the debentures or debenture or rent-charge stock of any railway, canal, dock, harbour, gas, water, or other company or body incorporated in the Federated Malay States or the Straits Settlements which shall have paid a dividend at the rate of not less than five per centum upon its ordinary capital during each of the three years last preceding the time of investment;

(*i*) in or upon the stocks, bonds, debentures, or securities of any public body, municipality, or local authority in the Federated Malay States or the Straits Settlements the revenues whereof are under the control of the Government of the said States or Settlements, as the case may be;

(*j*) in any other security which may from time to time be added by resolution of the Federal Council,

and may also from time to time vary any such investment as aforesaid for others of the same nature; provided always that no such original investment as aforesaid shall, where there is a person under no disability entitled in possession to receive the income of the trust fund for his life or for a term of years determinable with his life or for any greater interest, be made without the consent in writing of such person.

Discretion of trustees.

4. Every power conferred by Section 3 shall be exercised according to the discretion of the trustee but subject to any consent required by the instrument, if any, creating the trust with respect to the investment of the trust funds.

Application of preceding sections.

5. Sections 3 and 4 shall apply as well to trusts created before as to trusts created after the commencement of this Enactment, and the powers thereby conferred shall be in addition to the powers conferred by the instrument, if any, creating the trust.

Loans and investments by trustees not chargeable as breaches of trust.

6. (i) A trustee lending money on the security of any property on which he can lawfully lend shall not be chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made, provided that it appears to the Court that in making the loan the trustee was acting upon a report as to the value of the property made by a person whom he reasonably believed to be an able, practical surveyor or valuer instructed and employed independently of any owner of the property, whether such surveyor or valuer carried on business in the locality where the property is situate or elsewhere, and that the amount of the loan does not exceed two equal third parts of the value ofthe property as stated

in the report and that the loan was made under the advice of the surveyor or valuer expressed in the report.

(ii) A trustee shall not be chargeable with breach of trust by reason only of his continuing to hold an investment which has ceased to be an investment authorized by the instrument of trust or by this Enactment.

(iii) This section applies to transfers of existing securities as well as to new securities and to investments made as well before as after the commencement of this Enactment, except where an action or other proceeding is pending with reference thereto at the commencement of this Enactment.

Liability for loss by reason of improper investments.

7. (i) Where a trustee improperly advances trust money on the security of a charge which would at the time of the investment be a proper investment in all respects for a smaller sum than is actually advanced thereon, the security shall be deemed an authorized investment for the smaller sum and the trustee shall only be liable to make good the sum advanced in excess thereof with interest.

(ii) This section applies to investments made as well before as after the commencement of this Enactment, except where an action or other proceeding is pending with reference thereto at the commencement of this Enactment.

PART II.

VARIOUS POWERS AND DUTIES OF TRUSTEES.

Appointment of New Trustees.

Power of appointing new trustees.

8. (i) Where a trustee, either original or substituted and whether appointed by a Court or otherwise, is dead or remains out of the Federated Malay States for more than twelve months or desires to be discharged from all or any of the trusts or powers reposed in or conferred on him or refuses or is unfit to act therein or is incapable of acting therein, then the person or persons nominated for the purpose of appointing new trustees by the instrument, if any, creating the trust, or if there is no such person or no such person able and willing to act then the surviving or continuing trustees or trustee for the time being or the personal representatives of the last surviving or continuing trustee, may by writing appoint another person or other persons to be a trustee or trustees in the place of the trustee dead, remaining out of the Federated Malay States, desiring to be discharged, refusing or being unfit or being incapable as aforesaid.

(ii) On the appointment of a new trustee for the whole or any part of trust property—

(*a*) the number of trustees may be increased; and

(*b*) a separate set of trustees may be appointed for any part of the trust property held on trusts distinct from those relating to any other part or parts of the trust property, notwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property,

and any existing trustee may be appointed or remain one of such separate set of trustees ; or, if only one trustee was originally appointed, then one separate trustee may be so appointed for the first mentioned part ; and

(*c*) it shall not be obligatory to appoint more than one new trustee where only one trustee was originally appointed or to fill up the original number of trustees where more than two trustees were originally appointed ; but, except where only one trustee was originally appointed, a trustee shall not be discharged under this section from his trust unless there will be at least two trustees to perform the trust ; and

(*d*) any assurance or thing requisite for vesting the trust property or any part thereof jointly in the persons who are the trustees shall be executed or done.

(iii) Every new trustee so appointed, as well before as after all the trust property becomes by law or by assurance or otherwise vested in him, shall have the same powers, authorities, and discretions and may in all respects act as if he had been originally appointed a trustee by the instrument, if any, creating the trust.

(iv) The provisions of this section relative to a trustee who is dead include the case of a person nominated trustee in a will but dying before the testator, and those relative to a continuing trustee include a refusing or retiring trustee if willing to act in the execution of the provisions of this section.

(v) This section applies only if and so far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument and to any provisions therein contained.

(vi) This section applies to trusts created either before or after the commencement of this Enactment.

Retirement of trustee.

9. (i) Where there are more than two trustees, if one of them by instrument under his hand declares that he is desirous of being discharged from the trust and if his co-trustees, and such other person, if any, as is empowered to appoint trustees, by instruments under their hands consent to the discharge of the trustee and to the vesting in the co-trustees alone of the trust property, then the trustee desirous of being discharged shall be deemed to have retired from the trust and shall, by the said instruments, be discharged therefrom under this Enactment without any new trustee being appointed in his place.

(ii) Any assurance or thing requisite for vesting the trust property in the continuing trustees shall be executed or done.

(iii) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument and to any provisions therein contained.

(iv) This section applies to trusts created either before or after the commencement of this Enactment.

Vesting of movable property in new or continuing trustees.

10. (i) Where an instrument by which a new trustee is appointed to perform any trust contains a declaration by the appointor to the effect that any interest in any movable property subject to the

trust or the right to recover and receive any debt or other thing in action so subject shall vest in the persons who by virtue of the instrument become and are the trustees for performing the trust, that declaration shall without any assignment operate to vest in those persons, as joint owners and for the purposes of the trust, that interest or right.

(ii) Where an instrument by which a retiring trustee is discharged under this Enactment contains such a declaration as is in this section mentioned by the retiring and continuing trustees and by the other person, if any, empowered to appoint trustees, that declaration shall without any assignment operate to vest in the continuing trustees alone, as joint owners and for the purposes of the trust, the interest or right to which the declaration relates.

(iii) This section does not extend to any such share, stock, annuity, or property as is only transferable in books kept by a company or other body or in manner directed by or under any Enactment.

(iv) This section applies only to instruments executed after the commencement of this Enactment.

Purchase and Sale.

Power of trustee for sale to sell by auction, etc.

11. (i) Where a trust for sale or a power of sale of property is vested in a trustee, he may sell or concur with any other person in selling all or any part of the property either subject to prior charges or not and either together or in lots by public auction or by private contract subject to any such conditions respecting title or evidence of title or other matter as the trustee thinks fit, with power to vary any contract for sale and to buy in at any auction or to rescind any contract for sale and to re-sell without being answerable for any loss.

(ii) This section applies only if and as far as a contrary intention is not expressed in the instrument creating the trust or power and shall have effect subject to the terms of that instrument and to the provisions therein contained.

(iii) This section applies to trusts or powers created by instruments coming into operation either before or after the commencement of this Enactment.

Power to sell subject to depreciatory conditions.

12. (i) No sale made by a trustee shall be impeached by any beneficiary upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory, unless it also appears that the consideration for the sale was thereby rendered inadequate.

(ii) No sale made by a trustee shall, after the execution of the conveyance, be impeached as against the purchaser upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory, unless it appears that the purchaser was acting in collusion with the trustee at the time when the contract for sale was made.

(iii) No purchaser upon any sale made by a trustee shall be at liberty to make any objection against the title upon the ground aforesaid.

(iv) This section applies only to sales made after the commencement of this Enactment.

Various Powers and Liabilities.

Power to authorize receipt of money by solicitor or banker.

13. (i) A trustee may appoint a solicitor to be his agent to receive and give a discharge for any money or valuable consideration or property receivable by the trustee under the trust by permitting the solicitor to have the custody of and to produce an instrument having in the body thereof or endorsed thereon a receipt for such money or valuable consideration or property, the instrument being executed or the endorsed receipt being signed by the person entitled to give a receipt for such money or valuable consideration or property; and a trustee shall not be chargeable with breach of trust by reason only of his having made or concurred in making any such appointment; and the producing of any such instrument by the solicitor shall be sufficient authority to the person liable to pay or give such money or valuable consideration or property for his paying or giving the same to the solicitor, without the solicitor producing any separate or other direction or authority in that behalf from the person who executed or signed the instrument.

(ii) A trustee may appoint a banker or solicitor to be his agent to receive and give a discharge for any money payable to the trustee under or by virtue of a policy of assurance by permitting the banker or solicitor to have the custody of and to produce the policy of assurance with a receipt signed by the trustee; and a trustee shall not be chargeable with breach of trust by reason only of his having made or concurred in making any such appointment.

(iii) Nothing in this section shall exempt a trustee from any liability which he would have incurred if this Enactment had not been passed in case he permits any such money or valuable consideration or property to remain in the hands or under the control of the banker or solicitor for a period longer than is reasonably necessary to enable the banker or solicitor (as the case may be) to pay or transfer the same to the trustee.

(iv) This section applies only where the money or valuable consideration or property is received after the commencement of this Enactment.

(v) Nothing in this section shall authorize a trustee to do anything which he is in express terms forbidden to do, or to omit anything which he is in express terms directed to do, by the instrument creating the trust.

Power to insure building.

14. (i) A trustee may insure against loss or damage by fire any building or other insurable property to any amount (including the amount of any insurance already on foot) not exceeding three equal fourth parts of the full value of such building or property and pay the premiums for such insurance out of the income thereof or out of the income of any other property subject to the same trusts without obtaining the consent of any person who may be entitled wholly or partly to such income.

(ii) This section does not apply to any building or property which a trustee is bound forthwith to convey absolutely to any beneficiary upon being requested to do so.

(iii) This section applies to trusts created either before or after the commencement of this Enactment, but nothing in this section shall authorize any trustee to do anything which he is in express terms forbidden to do, or to omit to do anything which he is in express terms directed to do, by the instrument creating the trust.

Power of trustees of renewable leaseholds to renew and raise money for the purpose.

15. (i) A trustee of any leaseholds for lives or years which are renewable from time to time either under any covenant or contract or by custom or usual practice may, if he thinks fit, and shall, if thereto required by any person having any beneficial interest, present or future or contingent, in the leaseholds, use his best endeavours to obtain from time to time a renewed lease of the same property on the accustomed and reasonable terms and for that purpose may from time to time make or concur in making a surrender of the lease for the time being subsisting and do all such other acts as are requisite ; provided that, where by the terms of the settlement or will the person in possession for his life or other limited interest is entitled to enjoy the same without any obligation to renew or to contribute to the expense of renewal, this section shall not apply unless the consent in writing of that person is obtained to the renewal on the part of the trustee.

(ii) If money is required to pay for the renewal, the trustee effecting the renewal may pay the same out of any money then in his hands in trust for the persons beneficially interested in the lands to be comprised in the renewed lease, and if he has not in his hands sufficient money for the purpose he may raise the money required by charge of the property to be comprised in the renewed lease or of any other property for the time being subject to the trusts to which that property is subject ; and no person advancing money upon a charge purporting to be under this power shall be bound to see that the money is wanted or that no more is raised than is wanted for the purpose.

(iii) This section applies to trusts created either before or after the commencement of this Enactment, but nothing in this section shall authorize any trustee to do anything which he is in express terms forbidden to do, or to omit to do anything which he is in express terms directed to do, by the instrument creating the trust.

Power of trustee to give receipts.

16. (i) The receipt in writing of any trustee for any money, securities, or other movable property payable, transferable, or deliverable to him under any trust or power shall be a sufficient discharge for the same and shall effectually exonerate the person paying, transferring, or delivering the same from seeing to the application or being answerable for any loss or misapplication thereof.

(ii) This section applies to trusts created either before or after the commencement of this Enactment.

Power of executors and trustees to compound, etc.

17. (i) An executor or administrator may pay or allow any debt or claim on any evidence that he thinks sufficient.

(ii) An executor or administrator or two or more trustees acting together or a sole acting trustee where by the instrument, if any, creating the trust a sole trustee is authorized to execute the trusts and powers thereof may, if and as he or they may think fit, accept

any composition or any security for any debt or for any property, movable or immovable, claimed and may allow any time for payment of any debt and may compromise, compound, abandon, submit to arbitration, or otherwise settle any debt, account, claim, or thing whatever relating to the testator's or intestate's estate or to the trust and for any of those purposes may enter into, give, execute, and do such agreements, instruments of composition or arrangement, releases, and other things as to him or them seem expedient without being responsible for any loss occasioned by any act or thing so done by him or them in good faith.

(iii) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument and to the provisions therein contained.

(iv) This section applies to executorships, administratorships, and trusts constituted or created either before or after the commencement of this Enactment.

Powers of two or more trustees.

18. (i) Where a power or trust is given to or vested in two or more trustees jointly, then, unless the contrary is expressed in the instrument, if any, creating the power or trust, the same may be exercised or performed by the survivor or survivors of them for the time being.

(ii) This section applies only to trusts constituted after or created by instrument coming into operation after the commencement of this Enactment.

Exoneration of trustee in respect of certain powers of attorney.

19. A trustee acting or paying money in good faith under or in pursuance of any power of attorney shall not be liable for any such act or payment by reason of the fact that at the time of the payment or act the person who gave the power of attorney was dead or had done some act to avoid the power, if this fact was not known to the trustee at the time of his so acting or paying;

Provided that nothing in this section shall affect the right of any person entitled to the money against the person to whom the payment is made and that the person so entitled shall have the same remedy against the person to whom the payment is made as he would have had against the trustee.

Implied indemnity of trustees.

20. A trustee shall, without prejudice to the provisions of the instrument, if any, creating the trust, be chargeable only for money and securities actually received by him, notwithstanding his signing any receipt for the sake of conformity, and shall be answerable and accountable only for his own acts, receipts, neglects, or defaults and not for those of any other trustee nor for any banker, broker, or other person with whom any trust moneys or securities may be deposited nor for the insufficiency or deficiency of any securities nor for any other loss, unless the same happens through his own wilful default, and may reimburse himself or pay or discharge out of the trust premises all expenses incurred in or about the execution of his trusts or powers.

Liability of executor or administrator in respect of leases.

21. (i) Where an executor or administrator liable, as such to the rents, covenants, or agreements contained in any lease or agreement for a lease granted or assigned, whether before or after the commencement of this Enactment, to the testator or intestate whose

estate is being administered has satisfied all such liabilities under the said lease or agreement for a lease as may have accrued due and been claimed up to the time of the assignment hereinafter mentioned and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised or agreed to be demised, although the period for laying out the same may not have arrived, and has assigned the lease or agreement for a lease to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto respectively without appropriating any part or any further part (as the case may be) of the estate of the deceased to meet any future liability under the said lease or agreement for a lease.

(ii) The executor or administrator so distributing the residuary estate shall not, after having assigned the said lease or agreement for a lease and having where necessary set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said lease or agreement for a lease.

(iii) Nothing herein contained shall prejudice the right of the lessor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed.

(iv) This section applies to executorships and administratorships constituted either before or after the commencement of this Enactment.

Distribution of assets of testator or intestate after notice.

22. (i) Where an executor or administrator has given such or the like notices as would be given by the Court in an administration suit for creditors and others to send in to the executor or administrator their claims against the estate of the testator or intestate, such executor or administrator shall, at the expiration of the time named in the said notices or the last of the said notices for sending in such claims, be at liberty to distribute the assets of the testator or intestate or any part thereof amongst the parties entitled thereto, having regard to the claims of which such executor or administrator has then notice, and shall not be liable for the assets or any part thereof so distributed to any person of whose claim such executor or administrator has not had notice at the time of distribution of the said assets or a part thereof, as the case may be.

(ii) Nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets or any part thereof into the hands of the person or persons who may have received the same respectively.

(iii) This section applies to executorships and administratorships constituted either before or after the commencement of this Enactment.

PART III.

POWERS OF THE COURT.

Appointment of New Trustees and Vesting Orders.

Power of the Court to appoint new trustees.

23. (i) The Supreme Court may, whenever it is expedient to appoint a new trustee or new trustees and it is found inexpedient, difficult, or impracticable so to do without the assistance of the Court, make an order for the appointment of a new trustee or new trustees either in substitution for or in addition to any existing trustee or trustees or although there is no existing trustee. In particular and without prejudice to the generality of the foregoing provision, the Court may, if it thinks fit, make an order for the appointment of a new trustee in substitution for a trustee who is sentenced to a term of imprisonment or is declared to be an insolvent or is a bankrupt or is a lunatic or of unsound mind.

(ii) An order under this section and any consequential vesting order or conveyance shall not operate further or otherwise as a discharge to any former or continuing trustee than an appointment of new trustees under any power for that purpose contained in any instrument would have operated.

(iii) Nothing in this section shall give power to appoint an executor or administrator.

Vesting orders as to land.

24. In any of the following cases, namely—

(1) Where the Supreme Court appoints or has appointed a new trustee ; and

(2) Where a trustee entitled to or possessed of any land, or entitled to a contingent right therein, either solely or jointly with any other person—

(*a*) is a minor, or

(*b*) is a lunatic or person of unsound mind, or

(*c*) is out of the jurisdiction of the Supreme Court, or

(*d*) cannot be found ; and

(3) Where it is uncertain who was the survivor of two or more trustees jointly entitled to or possessed of any land ; and

(4) Where as to the last trustee known to have been entitled to or possessed of any land it is uncertain whether he is living or dead ; and

(5) Where there is no personal representative of a trustee who was entitled to or possessed of land and has died intestate as to that land, or where it is uncertain who is the personal representative or devisee of a trustee who was entitled to or possessed of land and is dead ; and

(6) Where a trustee jointly or solely entitled to or possessed of any land or entitled to a contingent right therein has been required, by or on behalf of a person entitled to require a conveyance of the land or a release of the right, to convey the land or to release the right and has wilfully refused or neglected to convey the land or release the right for twenty-eight days after the date of the requirement ;

the Supreme Court may make an order (in this Enactment called a vesting order) vesting the land in any such person in any such manner and for any such interest as the Court may direct or releasing or disposing of the contingent right to such person as the Court may direct.

Provided that—

(*a*) Where the order is consequential on the appointment of a new trustee, the land shall be vested for such interest as the Court may direct in the persons who on the appointment are the trustees ; and

(*b*) Where the order relates to a trustee entitled jointly with another person and such trustee is out of the jurisdiction of the Supreme Court or cannot be found, the land or right shall be vested in such other person either alone or with some other person.

Orders as to contingent rights of unborn persons.

25. Where any land is subject to a contingent right in an unborn person or class of unborn persons who on coming into existence would in respect thereof become entitled to or possessed of the land on any trust, the Supreme Court may make an order releasing the land from the contingent right or may make an order vesting in any person the estate to or of which the unborn person or class of unborn persons would on coming into existence be entitled or possessed in the land.

Vesting order consequential on judgment for sale of land.

26. Where any Court gives a judgment or makes an order directing the sale of any land, every person who is entitled to or possessed of the land or entitled to a contingent right therein and is a party to the action or proceeding in which the judgment or order is given or made or is otherwise bound by the judgment or order shall be deemed to be so entitled or possessed, as the case may be, as a trustee within the meaning of this Enactment ; and the Supreme Court may, if it thinks expedient, make an order vesting the land or any part thereof for such interest as that Court thinks fit in the purchaser or in any other person.

Vesting order consequential on judgment for specific performance, etc.

27. Where a judgment is given for the specific performance of a contract concerning any land or for the partition, or sale in lieu of partition, or exchange of any land, or generally where any judgment is given for the conveyance of any land, the Supreme Court may declare that any of the parties to the action are trustees of the land or any part thereof within the meaning of this Enactment or may declare that the interests of unborn persons who might claim under any party to the action or under the will or settlement, made otherwise than for valuable consideration, of any person deceased who was during his lifetime a party to the contract or transactions concerning which the judgment is given are the interests of persons who, on coming into existence, would be trustees within the meaning of this Enactment, and thereupon the Supreme Court may make a vesting order relating to the rights of those persons, born and unborn, as if they had been trustees.

Effect of vesting order.

28. Subject to due compliance with the requirements of the laws relating to registration of interests in land, a vesting order under any of the foregoing provisions shall in the case of a vesting order

consequential on the appointment of a new trustee have the same effect as if the persons who before the appointment were the trustees (if any) had duly executed all proper conveyances of the land for such interest as the Supreme Court directs or if there is no such person or no such person of full capacity then as if such person had existed and been of full capacity and had duly executed all proper conveyances of the land for such interest as the Court directs and shall in every other case have the same effect as if the trustee or other person or description or class of persons to whose rights or supposed rights the said provisions respectively relate had been an ascertained and existing person of full capacity and had executed a conveyance or release to the effect intended by the order.

Power to appoint person to convey.

29. In all cases where a vesting order can be made under any of the foregoing provisions the Supreme Court may, if it is more convenient, appoint a person to convey the land or release the contingent right, and a conveyance or release by that person in conformity with the order shall, subject to due compliance with the requirements of the laws relating to registration of interests in land, have the same effect as an order under the appropriate provision.

Vesting orders as to stock and things in action.

30. (i) In any of the following cases, namely—

(1) Where the Supreme Court appoints or has appointed a new trustee ; or

(2) Where a trustee entitled alone or jointly with another person to stock or to a thing in action—

(*a*) is a minor, or

(*b*) is a lunatic or of unsound mind, or

(*c*) is out of the jurisdiction of the Supreme Court, or

(*d*) cannot be found, or

(*e*) neglects or refuses to transfer stock or receive the dividends or income thereof, or to sue for or recover a thing in action, according to the direction of the person absolutely entitled thereto for twenty-eight days next after a request in writing has been made to him by the person so entitled, or

(*f*) neglects or refuses to transfer stock or receive the dividends or income thereof, or to sue for or recover a thing in action, for twenty-eight days next after an order of the Supreme Court for that purpose has been served on him ; or

(3) Where it is uncertain whether a trustee entitled alone or jointly with another person to stock or to a thing in action is alive or dead,

the Supreme Court may make an order vesting the right to transfer or call for a transfer of stock or to receive the dividends or income thereof or to sue for or recover a thing in action in any such person as the Court may appoint ;

Provided that—

(*a*) Where the order is consequential on the appointment by the Court of a new trustee, the right shall be vested in the persons who on the appointment are the trustees ; and

(*b*) Where the person whose right is dealt with by the order was entitled jointly with another person, the right shall be vested in that last-mentioned person either alone or jointly with any other person whom the Court may appoint.

(ii) In all cases where a vesting order can be made under this section the Court may, if it is more convenient, appoint some proper person to make or join in making the transfer.

(iii) The person in whom the right to transfer or call for the transfer of any stock is vested by an order of the Court under this Enactment may transfer the stock to himself or any other person according to the order, and all corporations, associations, and companies shall obey every order under this section according to its tenor.

(iv) After notice in writing of an order under this section it shall not be lawful for any corporation, association, or company to transfer any stock to which the order relates or to pay any dividends thereon except in accordance with the order.

(v) The Supreme Court may make declarations and give directions concerning the manner in which the right to any stock or thing in action vested under the provisions of this Enactment is to be exercised.

(vi) The provisions of this Enactment as to vesting orders shall apply to shares in ships registered under any Enactment relating to merchant shipping as if they were stock.

Persons entitled to apply for orders.

31. (i) An order under this Enactment for the appointment of a new trustee or concerning any land, stock, or thing in action subject to a trust may be made on the application of any person beneficially interested in the land, stock, or thing in action, whether under disability or not, or on the application of any person duly appointed trustee thereof.

(ii) An order under this Enactment concerning any land, stock, or thing in action subject to a charge may be made on the application of any person beneficially interested in the property charged, whether under disability or not, or of any person interested in the money secured by the charge.

Powers of new trustee appointed by Court.

32. Every trustee appointed by a Court of competent jurisdiction shall, as well before as after the trust property becomes by law or by assurance or otherwise vested in him, have the same powers, authorities, and discretions and may in all respects act as if he had been originally appointed a trustee by the instrument, if any, creating the trust.

Power to charge costs on trust estate.

33. The Supreme Court may order the costs and expenses of and incident to any application for an order appointing a new trustee or for a vesting order, or of and incident to any such order or any conveyance or transfer in pursuance thereof, to be paid or raised out of the land or movable property in respect whereof the same is made or out of the income thereof or to be borne and paid in such manner and by such persons as to the Court may seem just.

Trustees of charities.

34. The powers conferred by this Enactment as to vesting orders may be exercised for vesting any land, stock, or thing in action in

any trustee of a charity or society over which the Supreme Court would have jurisdiction upon action duly instituted, whether the appointment of the trustee was made by instrument under a power or by the Supreme Court under its general or statutory jurisdiction.

Orders made upon certain allegations to be conclusive evidence.

35. Where a vesting order is made as to any land under this Enactment founded on an allegation of the personal incapacity of a trustee or on an allegation that a trustee is out of the jurisdiction of the Supreme Court or cannot be found or that it is uncertain which of several trustees was the survivor or whether the last trustee is living or dead or on an allegation that any trustee has died intestate or has died and it is not known who is the personal representative or devisee, the fact that the order has been so made shall be conclusive evidence of the matter so alleged in any Court upon any question as to the validity of the order ; but this section shall not prevent the Supreme Court from directing a reconveyance or the payment of costs occasioned by any such order if improperly obtained.

Payment into Court by Trustees.

Payment into Court by trustees.

36. (i) Trustees, or the majority of trustees, having in their hands or under their control money or securities belonging to a trust may pay the same into the Supreme Court ; and the same shall, subject to the provisions of the Civil Procedure Code and to rules of Court, be dealt with according to the orders of the Supreme Court.

(ii) The receipt or certificate of the proper officer shall be a sufficient discharge to trustees for the money or securities so paid into Court.

(iii) Where any moneys or securities are vested in any persons as trustees and the majority are desirous of paying the same into Court but the concurrence of the other or others cannot be obtained, the Supreme Court may order the payment into Court to be made by the majority without the concurrence of the other or others ; and where any such moneys or securities are deposited with any banker, broker, or other depositary, the Court may order payment or delivery of the moneys or securities to the majority of the trustees for the purpose of payment into Court, and every transfer, payment, and delivery made in pursuance of any such order shall be valid and take effect as if the same had been made on the authority or by the act of all the persons entitled to the moneys and securities so transferred, paid, or delivered.

Miscellaneous.

Power to give judgment in absence of a trustee.

37. Where in any action the Supreme Court is satisfied that diligent search has been made for any person who, in the character of trustee, is made a defendant in any action to serve him with a process of the Court and that he cannot be found, the Court may hear and determine the action and give judgment therein against that person in his character of a trustee as if he had been duly served and had also appeared by his advocate and solicitor at the hearing but without prejudice to any interest which he may have in the matters in question in the action in any other character.

Power to make beneficiary indemnify for breach of trust.

38. (i) Where a trustee commits a breach of trust at the instigation or request or with the consent in writing of a beneficiary, the Supreme Court may, if it thinks fit, make such order as to the Court seems just for impounding all or any part of the interest of the beneficiary in the trust by way of indemnity to the trustee or person claiming through him.

(ii) This section shall apply to breaches of trust committed as well before as after the commencement of this Enactment but shall not apply so as to prejudice any question in an action or other proceeding which is pending at the commencement of this Enactment.

Indemnity.

39. This Enactment and every order purporting to be made under this Enactment shall be a complete indemnity to all persons for any acts done pursuant thereto ; and it shall not be necessary for such persons to enquire concerning the propriety of the order or whether the Court by which it was made had jurisdiction to make the same.

Application to Court for advice, etc.

40. (i) Any trustee may, without the institution of a suit, apply by petition to the Supreme Court for the opinion, advice, or direction of such Court on any question respecting the execution of the trust or the management or administration of the trust property.

(ii) Summons to attend the hearing of such application shall be served upon, or the hearing thereof shall be attended by, all persons interested in such application or such of them as the Court thinks expedient.

(iii) The trustee acting upon the opinion, advice, or direction given by the Court shall be deemed, so far as regards his own responsibility, to have discharged his duty as such trustee in the subject-matter of the said application unless he has been guilty of fraud or wilful concealment or misrepresentation in connection with the obtaining of such opinion, advice, or direction.

(iv) This section applies to trusts created either before or after the commencement of this Enactment.

ENACTMENT NO. 20 OF 1920. *

An Enactment to provide for the appointment of a Public Trustee.

L. N. GUILLEMARD, *President of the Federal Council.* [30th October, 1920.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Public Trustee Enactment, 1920," and shall come into force on such day as shall be appointed by the Chief Secretary to Government by notification in the *Gazette*.

Interpretation.

2. In this Enactment, unless there is something repugnant in the subject or context—

"Letters of administration" means letters of administration of the estate and effects of a deceased person, whether general or with a will annexed, or limited either in time or otherwise ;

"Trust" includes an executorship or administratorship ; and "trustee" shall be construed accordingly ; and "trust property" includes all property in the possession or under the control, wholly or partly, of the public trustee by virtue of any trust ;

"Private trustee" means a trustee other than the public trustee ;

"Expenses" includes costs and charges ;

"The Court" means the Supreme Court ;

Other expressions have the same meaning as in "The Trustee Enactment, 1920."

ESTABLISHMENT OF PUBLIC TRUSTEE.

Office of public trustee.

Corporation sole.

3. (i) There shall be established the office of public trustee.

(ii) The public trustee shall be a corporation sole under that name, with perpetual succession and an official seal, and may sue and be sued under the above name like any other corporation sole.

POWERS AND DUTIES OF PUBLIC TRUSTEE.

General powers and duties of public trustee.

4. (i) Subject to and in accordance with the provisions of this Enactment and rules made thereunder, the public trustee may

(*a*) act in the administration of estates of small value ;

(*b*) act as an ordinary trustee ;

(*c*) be appointed trustee by the Court.

* As this volume goes to press it is notified that this Enactment will come into force on 1st May, 1921.

(ii) Subject to the provisions of this Enactment and to the rules made thereunder, the public trustee may act either alone or jointly with any person or body of persons in any capacity to which he may be appointed in pursuance of this Enactment and shall have all the same powers, duties, and liabilities, and be entitled to the same rights and immunities and be subject to the control and orders of the Court, as a private trustee acting in the same capacity. Powers.

(iii) The public trustee may decline, either absolutely or except on the prescribed conditions, to accept any trust, but he shall not decline to accept any trust on the ground only of the small value of the trust property. Refusal of trust.

(iv) The public trustee shall not accept any trust which involves the management or carrying on of any business, except in the cases in which he may be authorized to do so by rules made under this Enactment, nor any trust under a deed of arrangement for the benefit of creditors, nor the administration of any estate known or believed by him to be insolvent. No business trust, nor for creditors, nor of insolvent estate.

(v) The public trustee shall not accept any trust exclusively for religious or charitable purposes. No charitable trust.

IN THE ADMINISTRATION OF SMALL ESTATES.

5. (i) Any person who in the opinion of the public trustee would be entitled to apply to the Court for an order for the administration by the Court of an estate, the gross capital value whereof is proved to the satisfaction of the public trustee to be less than five thousand dollars, may apply to the public trustee to administer the estate, and where any such application is made and it appears to the public trustee that the persons beneficially entitled are persons of small means, the public trustee shall administer the estate, unless he sees good reason for refusing to do so. Administration of small estates.

(ii) On the public trustee undertaking, by declaration in writing signed and sealed by him, to administer the estate, the trust property other than stock shall, by virtue of this Enactment and notwithstanding anything in the Official Administrators Enactments, 1905, contained, vest in him, and the right to transfer or call for the transfer of any stock forming part of the estate shall also vest in him, in like manner as if vesting orders had been made for the purpose by the Court under "The Trustee Enactment, 1920," and that Enactment shall apply accordingly. As from such vesting any trustee entitled under the trust to administer the estate shall be discharged from all liability attaching to the administration, except in respect of past acts ; Vesting of trust property.

Provided that

(*a*) the operation of this sub-section in respect of land shall be subject to due compliance with the requirements of the laws relating to registration of interests in land and that for the purposes of such laws the said declaration shall have the same effect as an order of the Court ; and

(*b*) the public trustee shall not exercise the right of himself transferring the stock without the leave of the Court.

Administrative powers.

(iii) For the purposes of the administration the public trustee may exercise such of the administrative powers and authorities of the Court as may be conferred on him by rules under this Enactment, subject to such conditions as may be imposed by rules.

Rules.

(iv) Rules shall be made under this Enactment for enabling the public trustee to take the opinion of the Court on any question arising in the course of any administration without judicial proceedings, and otherwise for making the procedure under this section simple and inexpensive.

Estate ordered by Court to be administered by public trustee.

(v) Where proceedings have been instituted in any Court for the administration of an estate and by reason of the small value of the estate it appears to the Court that the estate can be more economically administered by the public trustee than by the Court or that for any other reason it is expedient that the estate should be administered by the public trustee instead of the Court, the Court may order that the estate shall be administered by the public trustee, and thereupon (subject to any directions by the Court) this section shall apply as if the administration of the estate had been undertaken by the public trustee in pursuance of this section.

AS AN ORDINARY TRUSTEE.

Appointment of public trustee to be trustee, executor, etc.

6. (i) The public trustee may by that name, or any other sufficient description, be appointed to be trustee of any will or settlement or other instrument creating a trust or to perform any trust or duty belonging to a class which he is authorized by rules made under this Enactment to accept, and may be so appointed whether the will or settlement or instrument creating the trust or duty was made or came into operation before or after the commencement of this Enactment, and either as an original or as a new trustee, or as an additional trustee, in the same cases and in the same manner and by the same persons or Court as if he were a private trustee, with this addition, that, though the trustees originally appointed were two or more, the public trustee may be appointed sole trustee.

Retirement of co-trustee.

(ii) Where the public trustee has been appointed a trustee of any trust, a co-trustee may retire from the trust under and in accordance with Section 9 of "The Trustee Enactment, 1920," notwithstanding that there are not more than two trustees, and without such consents as are required by that section.

Contrary provisions in trust instrument.

(iii) The public trustee shall not be so appointed either as a new or additional trustee where the will, settlement, or other instrument creating the trust or duty contains a direction to the contrary, unless the Court otherwise orders.

Notice to beneficiaries.

(iv) Notice of any proposed appointment of the public trustee either as a new or additional trustee shall, where practicable, be given in the prescribed manner to all persons beneficially interested who are resident in the Federated Malay States and whose addresses are known to the persons proposing to make the appointment, or, if such beneficiaries are minors, to their guardians.

(v) If any person to whom such notice has been given within twenty-one days from the receipt of the notice applies to the Court, the Court may, if having regard to the interests of all the beneficiaries

it considers it expedient to do so, make an order prohibiting the appointment being made ; provided that a failure to give any such notice shall not invalidate any appointment made under this section.

Granting probate to public trustee.

7. (i) If, in pursuance of any rule under this Enactment, the public trustee is authorized to accept by that name probates of wills or letters of administration, the Court may grant such probate or letters to the public trustee by that name.

(ii) For such purpose the Court shall consider the public trustee as in law entitled equally with any other person or class of persons to obtain the grant of letters of administration, save that the consent or citation of the public trustee shall not be required for the grant of letters of administration to any other person and that, as between the public trustee and the widower, widow, or next-of-kin of the deceased, the widower, widow, or next-of-kin shall be preferred, unless for good cause shewn to the contrary.

Transfer by executor after probate to public trustee.

(iii) Any executor who has obtained probate or any administrator who has obtained letters of administration, and notwithstanding he has acted in the administration of the deceased's estate, may, with the sanction of the Court and after such notice to the persons beneficially interested as the Court may direct, transfer such estate to the public trustee for administration either solely or jointly with the continuing executors or administrator, if any.

(iv) The order of the Court sanctioning such transfer shall, subject to the provisions of this Enactment, give to the public trustee all the powers of such executor and administrator.

(v) Such executor and administrator shall not be in any way liable in respect of any act or default in reference to such estate subsequent to the date of such order, other than the act or default of himself or of persons other than himself for whose conduct he is in law responsible.

Appointment by Court of public trustee in place of executor or administrator.

8. The Court may, on the application of any person beneficially interested, appoint the public trustee, if sufficient cause is shewn, in place of all or any existing executors or administrators.

LIABILITY ; OFFICERS AND OFFICES ; FEES.

Liability of public revenue.

9. The revenues of the Federated Malay States shall be liable to make good all sums required to discharge any liability which the public trustee, if he were a private trustee, would be personally liable to discharge, except where the liability is one to which neither the public trustee nor any of his officers has in any way contributed and which neither he nor any of his officers could by the exercise of reasonable diligence have averted, and in that case the public trustee shall not, nor shall the revenues of the Federated Malay States, be subject to any liability.

Chief Secretary to appoint public trustee.

10. (i) The Chief Secretary to Government shall appoint a fit person to the office of public trustee, who shall hold office during pleasure and receive such salary or fees, and be appointed on such terms, as the Chief Secretary to Government determines.

(ii) The Chief Secretary to Government shall appoint such persons to be officers of the public trustee as he considers necessary

for the purposes of this Enactment, and those officers shall hold office upon such terms, and be remunerated at such rates and in such manner, as the Chief Secretary to Government sanctions.

(iii) The public trustee and every officer of the public trustee is hereby declared to be a public servant within the meaning of the Penal Code.

(iv) The salary or remuneration of the public trustee and his officers and such other expenses of executing his office or otherwise carrying this Enactment into effect as may be sanctioned by the Chief Secretary to Government shall be paid out of the Treasury.

Fees charged by public trustee.

11. (i) There shall be charged in respect of the duties of the public trustee such fees, whether by way of percentage or otherwise, as the Chief Secretary to Government prescribes.

(ii) Any expenses which might be retained or paid out of the trust property if the public trustee were a private trustee shall be so retained or paid, and the fees shall be retained or paid in the like manner as and in addition to such expenses.

(iii) Such fees shall be paid into the Treasury.

(iv) The fees under this section shall be arranged from time to time so as to produce an annual amount sufficient to discharge the salaries and other expenses incidental to the working of this Enactment, including such sum as the Chief Secretary to Government determines to be required to insure the revenues of the Federated Malay States against loss under this Enactment.

(v) The incidence of the fees and expenses under this section as between capital and income shall be determined by the public trustee.

SUPPLEMENTAL PROVISIONS AS TO PUBLIC TRUSTEE.

Appeal to Court from public trustee.

12. A person aggrieved by any act or omission or decision of the public trustee in relation to any trust may apply to the Court, and the Court may make such order in the matter as the Court thinks just.

Mode of action of public trustee.

13. (i) The public trustee shall not, nor shall any of his officers, act under this Enactment for reward, except as provided by this Enactment.

Employment of solicitors, bankers, accountants, and brokers.

(ii) The public trustee may, subject to the rules made under this Enactment, employ for the purposes of any trust such solicitors, bankers, accountants, and brokers or other persons as he considers necessary.

(iii) In determining the persons to be so employed in relation to any trust the public trustee shall have regard to the interests of the trust, but subject to this shall, whenever practicable, take into consideration the wishes of the creator of the trust and of the other trustees (if any) and of the beneficiaries, either expressed or as implied by the practice of the creator of the trust or in the previous management of the trust.

(iv) On behalf of the public trustee such person as may be prescribed may take any oath, make any declaration, verify any account, give personal attendance at any Court or place and do

any act or thing whatsoever which the public trustee is required or authorized to take, make, verify, give, or do.

(v) Where any bond or security would be required from a private person upon the grant to him of administration or upon his appointment to act in any capacity, the public trustee, if administration is granted to him or if he is appointed to act in such capacity as aforesaid, shall not be required to give such bond or security but shall be subject to the same liabilities and duties as if he had given such bond or security.

(vi) The entry of the public trustee by that name in the books of a company shall not constitute notice of a trust, and a company shall not be entitled to object to enter the name of the public trustee on its books by reason only that the public trustee is a corporation, and, in dealings with property, the fact that the person or one of the persons dealt with is the public trustee shall not of itself constitute notice of a trust.

INVESTIGATION AND AUDIT OF TRUST ACCOUNTS.

Investigation and audit of trust accounts.

14. (i) Subject to rules under this Enactment and unless the Court otherwise orders, the condition and accounts of any trust shall, on an application being made and notice thereof given in the prescribed manner by any trustee or beneficiary, be investigated and audited by such solicitor or public accountant as may be agreed on by the applicant and the trustees or, in default of agreement, by the public trustee or some person appointed by him.

(ii) Except with the leave of the Court such an investigation or audit shall not be required within twelve months after any such previous investigation or audit, and a trustee or beneficiary shall not be appointed under this section to make an investigation or audit.

Access of auditor to books.

(iii) The person making the investigation or audit (hereinafter called the auditor) shall have a right of access to the books, accounts, and vouchers of the trustees and to any securities and documents of title held by them on account of the trust, and may require from them such information and explanation as may be necessary for the performance of his duties.

(iv) Upon the completion of the investigation and audit such person shall forward to the applicant and to every trustee a copy of the accounts, together with a report thereon, and a certificate signed by him to the effect that the accounts exhibit a true view of the state of the affairs of the trust and that he has had the securities of the trust fund investments produced to and verified by him or (as the case may be) that such accounts are deficient in such respects as may be specified in such certificate.

Inspection by beneficiaries.

(v) Every beneficiary under the trust shall, subject to rules under this Enactment, be entitled at all reasonable times to inspect and take copies of the accounts, report, and certificate and, at his own expense, to be furnished with copies thereof or extracts therefrom.

Removal of auditor.

(vi) The auditor may be removed by order of the Court, and, if any auditor is removed or resigns or dies or becomes bankrupt or incapable of acting before the investigation and audit is completed,

a new auditor may be appointed in his place in like manner as the original auditor.

Remuneration and expenses of auditor.

(vii) The remuneration of the auditor and the other expenses of the investigation and audit shall be such as may be prescribed by rules under this Enactment and shall, unless the public trustee otherwise directs, be borne by the estate.

(viii) In the event of the public trustee so directing, he may order that such expenses be borne by the applicant or by the trustees personally or partly by them and partly by the applicant.

(ix) If any person having the custody of any documents to which the auditor has a right of access under this section fails or refuses to allow him to have access thereto or in anywise obstructs the investigation or audit, the auditor may apply to the Court, and thereupon the Court shall make such order as it thinks fit.

(x) Any person who in any statement of accounts, report, or certificate required for the purposes of this section wilfully makes a statement false in any material particular shall be liable to imprisonment of either description for a term not exceeding two years or to a fine or to both.

RULES.

Rules by Chief Secretary.

15. (i) The Chief Secretary to Government shall make rules for carrying into effect the objects of this Enactment and in particular for all or any of the following purposes :

(*a*) Establishing the office of public trustee and prescribing the trusts or duties which he is authorized to accept or undertake and the security, if any, to be given by the public trustee and his officers ;

(*b*) The transfer to and from the public trustee of any property ;

(*c*) The accounts to be kept and an audit thereof ;

(*d*) The establishment and regulation of any branch office ;

(*e*) Excluding any trusts from the operation of this Enactment or any part thereof ;

(*f*) The form and manner in which notices under this Enactment shall be given.

(ii) Any rules made by the Chief Secretary to Government under this section shall be published in the *Gazette* and shall, subject to the provisions of sub-sections (iii) and (iv), have the same force and effect as if enacted in this Enactment.

(iii) Such rules shall be laid before the Federal Council at its next meeting after the making of the rules and shall not after such meeting remain in force unless approved by a resolution of the said Council.

(iv) In approving any rules the Federal Council may make such alterations therein as it may think fit. Such approval and alterations (if any) shall be published in the *Gazette*, and the rules shall thereafter have effect subject to such alterations (if any).

ENACTMENT NO. 22 OF 1920.

An Enactment to consolidate and amend the law relating to the Police Force.

L. N. Guillemard,
President of the Federal Council.

[30th October, 1920.
9th November, 1920.]

It is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. (i) This Enactment may be cited as "The Police Force Enactment, 1920," and shall come into force upon the publication thereof in the *Gazette*.

Repeal and saving provisions.

(ii) Upon the coming into force of this Enactment the Enactments specified in the schedule hereto shall be repealed ; provided that all appointments, rules, and regulations made and all pensions granted under any Enactment hereby repealed which were in force or had authority immediately prior to the commencement of this Enactment shall, so far as they are not inconsistent with the provisions of this Enactment, be deemed to have been made and granted under this Enactment.

Interpretation.

2. In this Enactment unless there is something repugnant in the subject or context—

"British Malaya" means the Federated Malay States and the States of Johore, Kedah, Perlis, Kelantan, and Trengganu.

"Chief Secretary" means the Chief Secretary to the Government of the Federated Malay States.

"Commissioner" means the Commissioner of Police for the Federated Malay States.

"Gazetted Police Officer" includes officers of all grades from the Commissioner down to and including Probationary Assistant Commissioner.

"Superior Police Officer" means Inspector of Police of whatever class other than Sub-Inspector.

"Subordinate Police Officer" includes members of the Police Force of all grades from Sub-Inspector and Subadar down to and including lance-corporal.

"Police Constable" or "Constable" means a person below the rank of lance-corporal employed for police duties, but does not include an extra or additional constable, or a person appointed under Section 26.

"Member of the Police Force" includes all persons employed for police duties under this Enactment other than extra constables, additional constables, and persons appointed under Section 26.

"Peace Officer" includes all persons employed for police duties under this Enactment.

"Extra Constable" means a person employed temporarily under Section 22, and not enrolled on the permanent establishment.

"Additional Constable" means a person employed temporarily under Section 23, and not enrolled on the permanent establishment.

Administration of Police Force by Commissioner.

3. The superintendence and administration of the Police Force shall be in the hands of the Commissioner subject to the orders and control of the Chief Secretary.

Commissioner may exercise powers of Chief Police Officer.

4. The Commissioner, when present in any State, may exercise therein any of the powers vested by law in the Chief Police Officer.

Powers and duties to be exercised subject to this Enactment.

5. All powers vested in and duties imposed on any peace officer by any law in force in the Federated Malay States or any part thereof shall, as to the manner in which the same are to be exercised and performed, be subject to this Enactment and to the Police Regulations and Orders.

Liability of members of the Police Force for service throughout the Malay Peninsula.

6. All members of the Police Force, except in such cases as may be otherwise approved by the Chief Secretary, shall be bound to serve in any place in British Malaya or on board any vessel proceeding to any place within British Malaya or the Colony as the Commissioner may with the approval of the Chief Secretary require, and shall also be bound to proceed to and serve in the Colony in accordance with the provisions of the Police Assistance and Criminal Jurisdiction Enactment, 1913.

CONSTITUTION OF POLICE FORCE.

Constitution of Police Force.

7. The Police Force of the Federated Malay States shall consist of such number of gazetted, superior, and subordinate police officers and constables as may be sanctioned from time to time by the Chief Secretary.

Appointment of gazetted police officers.

8. Gazetted police officers shall be appointed and may be interdicted and dismissed in terms of the rules at the time existing with regard to civil officers of corresponding rank.

Appointment of superior and subordinate police officers.

9. (i) Superior police officers shall be appointed and promoted by the Commissioner with the approval of the Chief Secretary and may be dismissed in terms of the rules at the time existing with regard to civil officers of corresponding rank.

(ii) Subordinate police officers shall be appointed and promoted and may be dismissed by the Commissioner.

Appointment of constables.

10. Police constables shall be appointed and promoted by the Commissioner or by the Chief Police Officer with the approval of the Commissioner and may be dismissed by the Commissioner.

Appeal to Chief Secretary against dismissal.

11. Any subordinate police officer or constable having more than twelve months' service may appeal to the Chief Secretary against an order of dismissal.

Interdiction.

12. Any superior or subordinate police officer or constable may, pending the determination of an enquiry, be interdicted from the performance of duty by the Commissioner or by the Chief Police Officer.

Appointments.

13. (i) The appointment of every gazetted police officer shall be published in the *Gazette*.

(ii) A certificate of appointment to be signed by the Commissioner or by the Chief Police Officer shall be issued to every peace officer other than a gazetted police officer.

Powers of members of the Police Force.

14. Every member of the Police Force shall be vested with such powers, privileges, and duties as may be prescribed by the Police Regulations.

Peace officer to be deemed to be always on duty.

15. Every peace officer shall, for the purposes of this Enactment, be deemed to be always on duty when required to act as a peace officer, and shall have and exercise all the powers, duties, and privileges, vested in him by this Enactment or by the Police Regulations or by any other law for the time being in force, at any and every place where he may be doing duty.

Peace officer to be armed.

16. Every peace officer shall, for the effectual discharge of his duties, be provided with such staves, arms, accoutrements, and ammunition as may be prescribed by the Police Regulations.

Engagements of superior and subordinate police officers and constables.

17. (i) All superior and subordinate police officers and constables shall engage to serve in the Police Force for such periods as may be prescribed in the Police Regulations.

(ii) Every such engagement shall be in writing signed by the person engaged and shall—

(*a*) if made in the Federated Malay States be signed by the Commissioner or the Chief Police Officer ; or

(*b*) if made in England by the Crown Agents for the Colonies ; or

(*c*) if made elsewhere without the Federated Malay States by some person authorized in that behalf by the Chief Secretary.

Medical examination.

18. Every member of the Police Force shall, before entering on the duties of his office, undergo a medical examination.

Existing engagements.

19. Every peace officer at the commencement of this Enactment shall be held to continue his service on the terms of his existing engagement, as to pay and term of service, and in every other respect subject to the provisions of this Enactment and the Police Regulations.

Continuation of service.

20. (i) Every member of the Police Force who shall continue in the Police Force after the completion of the period of service for which he originally engaged shall, unless he shall sign a fresh engagement for a further period, be deemed to be under engagement to serve from month to month ; every such engagement after the first month's service being held to commence on the first and to be determinable on the last day of each successive month.

(ii) No such officer shall resign the Police Force unless he shall have given one month's notice in writing to the Chief Police Officer.

Resignation.

21. Every member of the Police Force under an engagement for a fixed period may be permitted to resign after such notice and on such terms as may be allowed by the Commissioner with the approval of the Chief Secretary.

Extra constables.

22. The Commissioner may without written engagement employ persons to serve temporarily as extra constables, and every such extra constable shall be vested with such powers, privileges, and duties as may be prescribed by the Police Regulations.

Additional constables.

23. (i) The Chief Police Officer may, on the application of any person, appoint any number of additional constables to preserve the peace or to keep order or to act as guards or watchmen at any place or as escorts from place to place at the cost of the person applying, but subject to the orders of the Commissioner and the Chief Police Officer and to the Police Regulations and Orders.

(ii) The person upon whose application such appointment shall have been made may upon giving one month's notice in writing to the Chief Police Officer require that the additional constables so appointed at his cost shall be discharged and thereupon the Chief Police Officer shall give notice of discharge to such additional constables.

Termination of services.

24. Any extra constable or additional constable may be dismissed by the Commissioner or may be discharged after one month's notice in writing or may resign upon giving to the Chief Police Officer one month's notice in writing.

Notice in writing.

25. The notice in writing referred to in Sections 20, 23, and 24 shall be given on or before the first day of the month at the end of which such services are intended to be discontinued.

Persons appointed for police duties by a Government Department.

26. Persons appointed by any Government Department to serve as railway, dock, wharf, marine, or traffic police or to perform any other special or local police duties may be vested with such powers, privileges, and duties within such local limits as may be prescribed by the Police Regulations.

Delivery of Government property on ceasing to be employed.

27. (i) Every peace officer upon ceasing to be employed shall deliver up his certificate of appointment (if any), all and every article of uniform and clothing and all horses, vehicles, arms, accoutrements, ammunition, staves, and other effects of every kind belonging to the Government which may have been entrusted to him.

(ii) Any person neglecting to so deliver up any horse or any of the articles aforesaid shall be liable on conviction to a fine not exceeding fifty dollars or to imprisonment of either description for a term not exceeding three months, and in addition thereto shall be liable to pay the value of the horses or articles not delivered up, which value shall be ascertained by the convicting Magistrate in a summary way and shall be recoverable as a fine.

Desertion.

28. Any peace officer, who unlawfully or in breach of his engagement absents himself from duty under circumstances which shew that he has the intention of not returning to duty, shall be deemed to have deserted, and shall be liable on conviction to imprisonment of either description for a term not exceeding twelve months or to a fine not exceeding five hundred dollars or to both such imprisonment and fine, and all pay due to him shall be forfeited.

DISCIPLINE AND DUTIES.

Peace officers to obey lawful orders.

29. A peace officer shall obey all lawful orders of his senior officers whether given verbally or in writing and shall conform to the Police Regulations and Orders.

Punishment of subordinate police officers and constables.

30. (i) Any subordinate police officer who shall be guilty of any of the following offences :

(*a*) absence from duty without leave or good cause ;

(*b*) sleeping on duty ;

(*c*) conduct to the prejudice of good order and discipline ;

(*d*) cowardice in the performance of duty ;

(*e*) disobedience of orders ;

(*f*) intoxication ;

(*g*) insubordination ;

(*h*) neglect of duty or orders ;

(*i*) malingering ;

(*j*) making a statement to a senior officer which he subsequently contradicts wholly or in part in a Court of Justice ;

(*k*) excess of duty resulting in loss or injury to any other person ;

(*l*) wilful destruction or negligent loss of or injury to Government property ;

shall be liable on conviction before an officer authorized in that behalf under the Police Regulations, to either of the following punishments :

(*a*) reduction in rank ;

(*b*) forfeiture of not more than one month's pay (except in case of absence without good cause when forfeiture of pay may extend to the period of absence in addition to any other punishment inflicted).

(ii) A constable or extra constable who shall be guilty of any of the offences specified in sub-section (i) shall be liable in lieu of or in addition to either of the punishments prescribed therein to imprisonment in police cells for a term not exceeding seven days with rations of bread or rice and water, or to not more than two of the following punishments :

(*a*) Confinement to barracks not exceeding fourteen days ;

(*b*) Compulsory performance of extra duties or drills ;

(*c*) Such fatigue duties as may be prescribed in the Police Regulations ;

(*d*) Temporary deprivation of specified privileges ;

(*e*) Forfeiture of good conduct allowance.

(iii) Any subordinate police officer, constable, or extra constable may appeal to the Commissioner against any punishment awarded under sub-section (i).

(iv) A sub-inspector, subadar, jemadar, or sergeant-major who is reduced in rank may appeal to the Chief Secretary against the decision of the Commissioner under sub-section (iii).

Grave offences may be tried by Magistrate.

31. (i) If it shall appear that the offence is of such a grave character as to require a more severe punishment than that prescribed under the preceding section the person accused may be charged before a Magistrate, and shall be liable on conviction to a fine not exceeding fifty dollars or to imprisonment of either description for a term not exceeding three months, or to both such fine and imprisonment.

(ii) Any person convicted under this section may, unless the conviction is reversed on appeal, be dismissed from the Police Force, and in such case all pay due to him may be forfeited.

Punishment of superior police officer.

32. (i) The Commissioner may punish any superior police officer for any of the offences specified in sub-section (i) of Section 30 by reprimand, severe reprimand, or forfeiture of not more than one month's pay.

(ii) Any such officer may appeal to the Chief Secretary against any order made under sub-section (i).

(iii) If it shall appear that the offence is of such a grave character as to require a more severe punishment than that prescribed under sub-section (i) the Commissioner may refer the matter to be dealt with by the Chief Secretary.

Threatening or insulting senior officer.

33. Any peace officer, who shall threaten or insult an officer senior in rank when such senior officer shall be on duty, or when such threat or insult shall relate to or be consequent on the discharge of duty by the officer so threatened or insulted, shall be liable on conviction before a Magistrate of the First Class to a fine not exceeding one hundred dollars or to imprisonment of either description for a term not exceeding twelve months or to both such fine and imprisonment.

Powers of Magistrate to be exercised by police officers.

34. In all matters in which by this Enactment jurisdiction is given to a police officer to inflict punishment the power of a Magistrate may be exercised by such police officer, in so far as is necessary to enable him to exercise such jurisdiction.

Duties of Police Force.

35. The duties of the Police Force shall be to take lawful measures for :

(*a*) preserving the public peace ;

(*b*) preventing and detecting crimes and offences ;

(*c*) regulating the traffic upon public thoroughfares and removing obstructions therefrom ;

(*d*) preserving order in public places and places of public resort, at public meetings and in assemblies for public amusements ; for which purpose all members of the Police Force and all extra constables when on duty shall have free admission to all such places, meetings, and assemblies while open to any of the public ;

(*e*) assisting in carrying out the Revenue, Excise, Sanitary, Conservancy, and Quarantine laws ;

(*f*) assisting in preserving order in the different ports and harbours in the State and in enforcing the Port Rules therein ;

(*g*) executing summonses, subpœnas, warrants, commitments, and other process issued by Courts ;

(*h*) exhibiting informations and conducting prosecutions ;

(*i*) protecting unclaimed and lost property and finding owners thereof ;

(*j*) assisting in the protection of life and property at outbreaks of fire ;

(*k*) protecting public property from loss or injury ;

(*l*) attending the Criminal Courts and (when specially ordered by the Resident) the Civil Courts and keeping order therein ;

(*m*) escorting and guarding prisoners ;

(*n*) executing such other duties as may by any law be imposed on a peace officer.

REWARD FUND.

Reward Fund.

36. All pay and allowances which shall be forfeited and such proportion as the Commissioner may think fit of all sums paid for extra or special services of members of the Police Force or extra constables shall be paid into a fund to be called the " Police Reward Fund," which fund shall be administered in accordance with the Police Regulations. The remainder of any sums paid for extra or special services of members of the Police Force and extra constables as above may be distributed to the persons in relation to whose services such sums may have been paid, in such proportions as the Commissioner may direct.

ASIATIC POLICE PENSIONS.

Asiatic Police pensions.

37. (i) There shall be charged on and paid out of the general revenue of the Federated Malay States such sums of money as may from time to time be granted by way of pensions, gratuities, or other allowances, in accordance with this Enactment or any rules made thereunder to Asiatics who have been members of the Police Force and to their dependants.

Rules.

(ii) The Chief Secretary may by notification in the *Gazette* make rules for the granting of such pensions, gratuities, and allowances.

(iii) Any rules made under this section may provide for the forfeiture, in events to be specified, of any pensions granted under this Enactment or any rules made thereunder.

Pensions not as of right.

38. No Asiatic member of the Police Force or dependant shall have an absolute right to a pension, gratuity, or allowance under this Enactment or any rules made thereunder, nor shall anything herein contained limit the right of the Chief Secretary to dismiss any Asiatic member of the Police Force without compensation.

Pension not to be assignable.

39. No pension, gratuity, or allowance granted under this Enactment or any rules made thereunder shall be assignable or transferable or liable to be attached, sequestered, or levied upon for or in respect of any debt or claim whatsoever.

ESTATES OF INTESTATES.

Movable property of intestates under $500 may be administered by Chief Police Officer.

40. (i) Whenever any person dies intestate in any of the Federated Malay States leaving movable property therein under five hundred dollars in value, which property is, in the absence of any person entitled thereto, taken charge of by the police for the purpose of safe custody, the Chief Police Officer may order the said property to be delivered without letters of administration taken out to any person claiming to be entitled to the whole or any part thereof, if he shall be satisfied as to the title of the claimant and the value of the property by the affirmation of the claimant, or by such other evidence as he may require; provided that, in the event of any such property being of a perishable nature, and likely to be deteriorated in value by being kept, the Chief Police Officer may order its sale, and the proceeds of such sale shall be dealt with in the same manner as the property is by this section directed to be dealt with.

(ii) The Chief Police Officer may, at his discretion, before making any order under the preceding sub-section, take such security as he may think proper for the due administration and distribution of such property. Nothing in this section contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order. Any property taken charge of under this section and not claimed within the period of one month, may be sold, and the proceeds if not over the value of twenty-five dollars shall be paid to the Police Reward Fund, and if over that value into the Treasury for the service of the State. Provided always, that if at any time thereafter the owner of such property shall appear and claim the same, restitution shall be made, on the claim being established to the satisfaction of the Resident, out of the said Reward Fund or out of the Treasury.

POLICE REGULATIONS AND ORDERS.

Police Regulations.

41. The Commissioner with the approval of the Chief Secretary may make from time to time such regulations to be called "Police Regulations" as he may think expedient not inconsistent with the provisions of this Enactment.

Such regulations in addition to the powers hereinbefore conferred may provide for

(*a*) organization and distribution;

(*b*) appointments, pay, discharges, dismissals, and conditions of service;

(*c*) classifications and promotions;

(*d*) discipline; the regulation and carrying out of punishments;

(*e*) instruction and examinations;

(*f*) inspections, drill, exercises, and parades;

(*g*) leave of absence;

(*h*) descriptions of uniforms, arms, and accoutrements to be provided;

(*i*) police services and duties of every description and the manner in which they shall be carried out ;

(*j*) administration of the Police Reward Fund ;

(*k*) such other matters as may be necessary and expedient for preventing abuse or neglect of duty, for rendering the Police Force efficient in the discharge of its duties, and for carrying out the objects of this Enactment.

Police Orders.

42. The Commissioner may make from time to time such orders to be called "Police Orders" as he may think expedient, not inconsistent with the provisions of this Enactment or the Police Regulations, relating to matters connected with the internal administration of the Police Force.

Such orders may relate to

(*a*) Departmental finance ;

(*b*) Buildings, grounds, stores, furniture, and equipment ;

(*c*) Transfers of police officers, the place at which they shall reside, and the particular services to be performed by them ;

(*d*) The collection and communication of intelligence and information ;

(*e*) The manner and form of reports, correspondence, and other records ;

(*f*) The performance of any act which may be necessary for the proper carrying out of the provisions of this or any other Enactment or any rules or regulations made thereunder or for the efficient discharge of any duty imposed by law on the Police Force.

PROTECTION OF PEACE OFFICERS.

Exemption in respect of civil process.

43. Notwithstanding anything in the Civil Procedure Code, 1918, the pay and allowances of a subordinate police officer or constable shall not be liable to be attached, seized, or taken in execution by any process of law or otherwise, nor shall any such person be liable to be imprisoned under an order of any Court by reason of non-payment of any debt which he may have incurred or for which he may become liable after the commencement of this Enactment.

Actions and prosecutions against peace officers.

44. (i) Except in the case of proceedings instituted on the complaint of a public servant for the breach of any of the provisions of this Enactment, all suits and prosecutions which may be lawfully brought against any peace officer for anything done, or omitted to be done by him in the execution of his duty as a peace officer whether under this Enactment or otherwise ;

And all suits and prosecutions which may be lawfully brought against any person acting in the aid of any peace officer in the execution of the duty of such peace officer, whether under this Enactment or otherwise ;

And all suits and prosecutions against any person which may be lawfully brought for anything done under this Enactment ;

Shall be commenced within three months after the thing complained of shall have been done, and not otherwise.

(ii) Notice in writing of any suit and of the cause thereof shall be given to the defendant at least one month before the commencement of such suit, and without such notice no such suit shall be brought or being brought the suit shall be dismissed.

(iii) In every suit so brought it shall be expressly alleged that the defendant acted maliciously and without reasonable or probable cause, and if at the trial the plaintiff shall fail to prove such allegation, the suit shall be dismissed.

(iv) The defendant in his written statement shall set out specially that he was acting under the provisions of this Enactment, or of some other Enactment or law, naming the section or sections, or otherwise referring to the law under which he was acting, and shall state generally the nature of the defence he proposes to make at the trial, but the defendant shall not at the trial, except as next hereinafter provided, be prevented from giving evidence of matters not stated in his written statement.

(v) If it shall appear to the Court on any such trial that any matter proposed to be put in evidence for the defendant, and not set out or clearly referred to in his written statement, is of such a nature as to embarrass the plaintiff by reason of the plaintiff not having had notice or knowledge or the means of knowing that the defendant intended to adduce such evidence, the Court shall postpone the trial and allow the defendant to amend his statement on such terms as may seem reasonable, and with or without costs.

(vi) Judgment shall not be given for the plaintiff in any suit for anything done or intended to be done under this Enactment, if it shall be made to appear to the Court that the defendant acted by the orders of any Magistrate empowered by law to act in that behalf, or if the defendant acted in good faith believing he had power to act, unless it be shewn that the defendant acted maliciously and without reasonable or probable cause.

(vii) In any case where the amount of damages which the Court may think proper in the cause shall not exceed in amount any sum tendered or offered in writing to be paid or any sum paid into Court by the defendant at any time before trial, the plaintiff shall not have judgment for any sum more than that tendered or offered or paid into Court, and shall pay to the defendant his costs in the suit. Provided always that in the event of any sufficient tender, offer in writing, or payment into Court, after suit commenced the costs up till the time of such tender, offer or payment, shall be in the discretion of the Court and the costs after such time shall be payable by the plaintiff to the defendant.

(viii) If the suit is dismissed, or if the plaintiff withdraws his suit, the Court shall allow to the defendant his full costs, and he shall have the like remedy for the same as any defendant has by law in other cases, and though judgment shall be given for the plaintiff in any such suit plaintiff shall not have costs against the defendant unless the Court before whom the trial shall be had shall certify its approbation of the action.

SCHEDULE.

ENACTMENTS REPEALED.

State.	No. and year.	Short title.
Pahang ..	9 of 1897	The Police Force Enactment, 1897
Perak	8 of 1904	The Police Force (Asiatics) Pensions Enactment, 1904
Selangor ..	9 of 1904	Do.
N. Sembilan ..	8 of 1904	Do.
Pahang ..	7 of 1904	Do.
Perak	7 of 1905	The Police Force Enactment, 1905
Selangor ..	8 of 1905	Do.
N. Sembilan ..	8 of 1905	Do.
Pahang ..	7 of 1905	Do.

ENACTMENT NO. 25 OF 1920.

An Enactment to consolidate and amend the law relating to Minor Offences and for other purposes.

L. N. GUILLEMARD,
President of the Federal Council.

[30th October, 1920.
9th November, 1920.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. (i) This Enactment may be cited as "The Minor Offences Enactment, 1920," and shall come into force upon the publication thereof in the *Gazette*.

Repeal.

(ii) Upon the commencement of this Enactment, the Enactments specified in the schedule shall be repealed to the extent mentioned in the third column of such schedule ; provided that all appointments, rules, and orders made, licenses issued, and fees and charges fixed under any Enactment hereby repealed which were in force immediately prior to the commencement of this Enactment shall, so far as they are not inconsistent with the provisions of this Enactment be deemed to have been made, issued, or fixed under this Enactment.

Interpretation.

2. (i) In this Enactment unless the context otherwise requires—

"Horse" includes mules and asses.

"Cattle" includes bulls, cows, bullocks, and buffaloes.

"Public road" includes every road, street, bridge, passage, footway, or square over which the public have a right of way.

"In or near any public road" includes all places in the public road and all places within ten yards of it not being effectually separated from and hidden from the road by a wall or otherwise.

(ii) Fireworks are said to be let off "near a public road" when let off in a verandah beside a public road, or from the doors or windows of a house looking into a public road, or overlooking a place in or near a public road or within the curtilage of a house adjoining a public road.

(iii) The open verandahs of houses abutting on the public roads are public roads for foot passengers.

RULES AND ORDERS AS TO ASSEMBLIES, ETC.

General rules for assemblies, processions, etc.

3. (i) The Chief Police Officer may from time to time, subject to the approval of the Resident, make general rules

(*a*) regulating the conduct of all assemblies and processions in public roads and the issue of licenses for the same ;

(*b*) requiring previous notice to be given of the intention to hold such assemblies and processions ;

(*c*) keeping order and preventing obstruction or inconvenience in public roads, bridges, landing-places, and all public places, and places of public resort, whether such public places or places of public resort are on public or private land ;

(*d*) prohibiting the passage through the public roads of vehicles constructed or loaded in such a way as to be dangerous or inconvenient to persons using the public roads or of vehicles not being under proper control ;

(*e*) prohibiting the use of specified public roads and bridges either absolutely or conditionally or at stated times to specified descriptions of traffic.

(ii) The Chief Police Officer may, with the sanction of the Resident, prohibit any assembly or procession in any public road.

(iii) The Chief Police Officer may from time to time issue police orders, prescribing the routes and gates by which carriages shall drive up to and retire from all places of assembly or of public resort, for the purpose of setting down and taking up visitors ; and, if the public roads are used, for fixing the places where, and the order in which such carriages shall wait in the interval.

(iv) Any police officer, authorized in that behalf by the Chief Police Officer, may upon payment of the prescribed fees issue a license for the use of music in the public roads on the occasion of festivals and ceremonies or for the right to conduct any procession along any public road.

(v) All general rules and police orders made under this section shall be published in the *Gazette*.

(vi) Any person who shall infringe any general rule or police order made under this section, or who shall at any festival or ceremony use, or cause to be used, or allow to be used, any music in a public road or shall conduct or assist in conducting any procession along any public road without a license or contrary to the terms of such license, shall be liable on conviction to a fine not exceeding twenty-five dollars.

(vii) Any person who holds, or is present assisting at, any assembly or procession in any public road held in defiance of a prohibition by the Chief Police Officer under sub-section (ii), shall be liable on conviction to a fine not exceeding one hundred dollars or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

ORDERS AS TO FIREWORKS.

Orders and licenses for fireworks.

4. (i) The Chief Police Officer may, with the sanction of the Resident, issue orders, to be published in the *Gazette*, authorizing the letting off of fireworks other than bombs or sand-crackers on certain fixed days, and at certain fixed hours, in places near a public road, and may issue licenses at particular times for the letting off

of fireworks other than bombs or sand-crackers in places near a public road.

(ii) Every license issued under this section shall state the place where, and hours between which, the fireworks may be fired or let off and the description of fireworks to be used.

(iii) No authority so published or license so issued shall be held to relieve any person from liability in the event of any damage, loss, or injury to person or property being caused by the firing or letting off of such fireworks.

(iv) Any person who lets off any fireworks, in or near any public road, except at such times and places and in such manner as shall, from time to time, be allowed under sub-section (i) shall be liable on conviction to a fine not exceeding twenty-five dollars.

(v) The occupier of any house, from or in which, or from or in the verandah of which, any contravention of the preceding sub-section takes place, shall be liable to the fine prescribed as well as the person, if another person, who commits the offence.

BURNING MATERIAL OR DISCHARGING FIREARMS IN PUBLIC ROAD.

Penalty.

5. Whoever sets fire to, or burns any straw or dangerous or offensively smelling combustible or negligently or wilfully discharges any firearm or air-gun, or sends up any fire-balloon or rocket, in or near any public road, shall be liable on conviction to a fine not exceeding twenty-five dollars.

DANGEROUS ANIMALS.

Duty of police officers as to dangerous animals.

6. It is the duty of every police officer to secure any animal, reasonably suspected to be mad or dangerous, and any wild animal, found at large in or near any public road, under circumstances of danger to the public ; and if there is reasonable ground to believe that any such mad, dangerous, or wild animal cannot be secured without risk of injury to the person of the police officer attempting to secure the same, it shall be lawful for such police officer to shoot, or otherwise destroy, such animal.

Ferocious dog or dangerous animal at large.

7. Whoever negligently suffers to be at large any ferocious dog, without a muzzle, or any other dangerous animal shall be liable on conviction to a fine not exceeding twenty dollars ; and, if the animal shall have bitten or attempted to bite any person, such animal may be destroyed by order of a Magistrate.

Letting loose dog or other animal.

8. Whoever sets on or urges any dog or other animal to attack, worry, or put in fear any person or animal shall be liable on conviction to a fine not exceeding fifty dollars.

DOGS.

Orders as to destruction of dogs.

9. (i) In any State a Chief Police Officer, with the sanction of the Resident, may, from time to time, by order to be published in the *Gazette*, appoint a period within which any dogs found straying in any public road, or beyond the enclosures of the houses of the owners of such dogs, may be destroyed.

(ii) Any such order may either apply to the whole State or be limited to any one or more district or districts.

(iii) At least ten days before the commencement of the period appointed notice shall be given of the said order throughout the area affected by it, in such manner as the Resident may direct.

Dog running at persons, etc.

10. If it shall be proved to the satisfaction of a Magistrate that any dog is in the habit of running at persons, or at carriages, horses, or cattle passing along a public road, the owner of such dog shall be liable on conviction to a fine not exceeding twenty-five dollars and such dog may be destroyed by order of the Magistrate.

NUISANCES.

Penalty for nuisance.

11. Whoever commits any of the following offences shall be liable on conviction to a fine not exceeding twenty-five dollars :

(i) Without authority in the case of State property or without the consent of the owner or occupier in the case of private property affixes or causes to be affixed any advertisement bill or notice or any paper against or upon any building, wall, or fence, or writes upon, defaces, or marks any such building, wall, or fence with chalk or paint or in any other way.

(ii) Bathes or washes himself or any other person, animal, or thing on any public road or in, upon, or by the side of any public tank, well, reservoir, water-course, or stream, the use of which for bathing has been forbidden by the Chief Police Officer.

(iii) Obstructs or incommodes a person bathing at any place set apart as a bathing place by wilful intrusion or by washing any animal or article at or near such place or in any other way.

(iv) Wilfully or indecently exposes his person or commits a nuisance by easing himself in or near any public road or in any public place.

(v) Being the owner or person in charge of any animal does not, if such animal dies, dispose of its carcass in such way as not to be a common nuisance.

(vi) Places on or near any public road any dead animal.

(vii) Spits on the floor or walls of any school-house, theatre, market, public building, or place of public entertainment or resort, or in any licensed, public, or hiring vehicle, or in any railway car, or on any wharf or jetty, or on any five-foot way or side-walk of a public road.

PIGS.

Keeping pigs in Malay villages.

12. Whoever keeps any pig in any Malay village not being within the limits of a Sanitary Board shall be liable on conviction to a fine of five dollars for every pig so kept and if after conviction he continues to keep a pig or pigs in such village he shall be liable to a further fine of five dollars for each pig for every day during which the offence continues.

Pigs rooting may be killed.

13. The Chief Police Officer may, whenever he finds it necessary, give orders for the killing of pigs found rooting on any public road or State land and the carcass of any pig so killed, if not removed forthwith, shall be buried by the police.

Provided that the Chief Police Officer shall not issue orders for the killing of pigs found rooting on any public road or State land until notice in writing of the intention to issue such order shall have been posted up in such locality at least twenty-four hours beforehand.

OFFENCES RELATING TO ANIMALS AND VEHICLES.

Animals damaging property.

14. Whoever being the owner or person in charge of any animal allows such animal to stray upon any public road or upon any public or private property shall be liable on conviction to a fine not exceeding twenty-five dollars in respect of each animal, and all damage done by such animal shall be assessed by the Magistrate, and shall be recoverable in the manner provided by law for the recovery of fines before Magistrates together with any amounts to be levied as fines, from the owner of the animal.

In the case of damage to private property the amount of damages recovered shall be paid to such person as the Magistrate may direct.

Penalty.

15. Whoever commits any of the following offences shall be liable on conviction to a fine not exceeding twenty-five dollars :

(1) Trains or breaks any horse in any public road or public place except in such places and at such times as may be allowed by the Chief Police Officer.

(2) Leads or drives any horse, cattle, sheep, goat, or pig on any public road in such a manner as not to have control over the same or in such a manner as to cause danger or obstruction to the public.

(3) Drives, rides, or leads any elephant on any public road without permission of the Chief Police Officer or of an officer authorized in that behalf by the Chief Police Officer.

(4) Leads, drives, or rides any animal or draws, pushes, rides, or drives any vehicle upon any public footway.

(5) Drives or rides any animal or draws, pushes, rides, or drives any vehicle in a manner so rash or negligent as to indicate a want of due regard for the safety of others.

(6) Being in charge of any horse or cattle in any public road or public place leaves the same at such a distance as not to have it under due control or is found asleep while so in charge.

(7) Causes or allows any vehicle for the conveyance of persons or of goods or other articles whether with or without horses or cattle to rest in any public road, except in such places as may be appointed for the purpose under any law in force for the time being, for a longer time than is absolutely necessary to take up or set down any persons or to load or unload any goods or other articles or to collect hire.

(8) Exposes in any public road for show, hire, or sale any horse or other animal or any vehicle or cleans or dresses any horse or other animal or cleans any vehicle or makes or repairs any part of any vehicle, except in cases of accident where repair on the spot is necessary, in such a manner as to interfere with the traffic.

(9) Drives in any public road any horse or pony from the left or near side of the vehicle drawn by such horse or pony.

(10) Drives or is in charge of any vehicle in any public road, the plate number affixed to which or the number marked on which is hidden from view either with his body or by any article whatsoever so that the said number cannot be distinctly seen.

OTHER OFFENCES.

16. Whoever commits any of the following offences shall be liable on conviction to a fine not exceeding twenty-five dollars : Penalty.

(1) Lays any article on any public road so as to cause an obstruction thereto or so as to make the use of the road less convenient.

(2) Allows to remain on any public road any article which has fallen from any vehicle of which he is in charge.

(3) Disobeys any lawful order given by a police officer in uniform engaged in regulating traffic on a public road.

(4) Causes or allows goods or other articles to rest on any public footway or other part of a public road or otherwise causes or allows such goods or other articles to create obstruction or inconvenience to the passage of the public for a longer time than may be absolutely necessary for loading or unloading such goods or other articles.

(5) Without the authority of the Chief Police Officer puts up any post or other thing on the side of any public road.

(6) Flies any kite or plays at any game or does any act which obstructs or interferes with the traffic in any public road, or the wires of any telephone or telegraph.

(7) Uses any indecent, threatening, abusive, or insulting words or behaves in a threatening or insulting manner or posts up or affixes or exhibits any indecent, threatening, abusive, or insulting written paper or drawing with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned.

(8) Except with the permission of the Sanitary Board, exposes for sale, or sets out in or upon any stall, booth, show-board, cask, basket, or otherwise any article whatsoever, so as to cause obstruction in any public road, or so as to make the use of any public road less convenient.

(9) Without the permission in writing of the Chief Police Officer or of any officer authorized in that behalf by the Chief Police Officer, beats within the limits of any town

or village between the hours of 12 midnight and 5 a.m. of the next day or in any public road at any hour a drum or tom-tom or blows a horn or trumpet or beats or sounds any brass or other metal instrument or utensil.

Notwithstanding that such permission in writing shall have been given any police officer not under the rank of Inspector may, on the complaint of a householder that the noise of any such instrument is dangerous to any sick person living near the place where such noise is being made or for other good and sufficient reason, enter upon the premises where the noise is being made, and after warning stop the same either by the removal of the instruments or the dispersal of the persons assembled there.

This section shall not be held to apply to military music.

RIVERS AND WATERWAYS.

Obstructions in rivers and waterways.

17. No person shall moor or leave any boat, vessel, raft, landing stage, bath-house, timber plank mark, buoy, or other object in any river or waterway in which the public have a right of navigation in such a manner as to interfere with such right or to cause injury or inconvenience to any person using such river or waterway or living on the banks thereof. Any person causing such interference, injury, or inconvenience, who neglects or refuses to remove such boat or thing as aforesaid immediately on being required so to do by a police officer or other duly authorized person, shall be liable on conviction to a fine not exceeding twenty-five dollars and such boat or thing may be removed by a police officer or other duly authorized person, and the expense of such removal shall be recoverable in the same manner as a fine from the owner or person in charge of the same.

Neglecting to report accident to registered boat.

18. Whenever any accident shall occur to a registered boat, attended with the loss of the life of, or serious injury to, any person, the owner or person in charge of the boat shall forthwith report the circumstances at a police station, and in default of so doing he shall be liable on conviction to a fine not exceeding twenty-five dollars.

MILITARY, POLICE, AND MARINE.

Unlawful possession of military, marine, or police stores.

19. Whoever knowingly detains, buys, exchanges, or receives from any person serving on board any Government vessel, or from any member of any regiment or military organization formed in or serving in the Federated Malay States or from any member of the Police Force any arms, ammunition, accoutrements, clothing, or other military or marine or police stores or necessaries, or any other property belonging to the Government, or who shall have in his possession or keeping any such articles or property and shall fail to account satisfactorily how he came by the same, shall be liable on conviction to a fine not exceeding twenty-five dollars, or to imprisonment of either description for a term not exceeding six weeks or to both such fine and imprisonment and on conviction the property may be forfeited.

Taking spirits, etc., into barracks and police stations, hospital, or asylum.

20. Whoever takes or attempts to take, into any military barrack, guard room, or encampment, or into any police barrack, police station or lock-up or into any public hospital or asylum any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, or any chandu, opium dross, or any preparation of opium, without the permission of the Commanding Officer or of the Chief Police Officer or of the person in charge of the public hospital or asylum respectively shall be liable on conviction to a fine not exceeding fifty dollars or to imprisonment of either description for a term not exceeding three months, and on conviction such liquors, drugs, or preparations, and the vessels containing the same may be forfeited.

Police constables drinking or loitering at taverns.

21. Any keeper or person in charge of any tavern or other place for the sale of intoxicating liquors or drugs who shall permit any police constable on duty to drink or use any intoxicating liquors or drugs, or to remain, loiter, or conceal himself, except for purposes connected with the execution of his duty, in any such tavern or place, or upon any premises belonging thereto, shall be liable on conviction to a fine not exceeding fifty dollars.

VAGRANTS.

Vagrants, beggars, etc.

22. (i) Every person wandering abroad and lodging in any shed or out-house without the permission of the owner thereof, or in any deserted or unoccupied building, or in the open air, or under a tent, or in or under any cart or wagon, or other similar shelter, not having any visible means of subsistence and not giving a good account of himself;

(ii) Every person begging for alms, and every person endeavouring by the exposure of wounds, sores, diseases, or deformities to obtain alms;

(iii) Every person endeavouring under any false or fraudulent pretence to procure charitable contributions of any nature or kind;

(iv) Every person found abroad between sunset and sunrise having in his custody or possession any picklock, skeleton key, crow, jack, bit, or other such implement without lawful excuse (the proof of which excuse shall be on such person) or being armed with any gun, pistol, sword, spear, kris, bludgeon, or other offensive weapon without lawful excuse (the proof of which excuse shall be on such person);

Shall, in each of the above cases, be liable on conviction to imprisonment of either description for a period not exceeding two months or to a fine not exceeding twenty-five dollars, or to both such imprisonment and fine and on a second or subsequent conviction to imprisonment of either description for a term not exceeding four months, or to a fine not exceeding fifty dollars, or to both such imprisonment and fine and, on conviction, any such implements or arms may be forfeited.

HOTELS, TAVERNS, ETC.

Disorderly conduct in hotels, taverns, etc.

23. Any person keeping or permitting to be kept any hotel, tavern, ale-house, coffee-house, boarding-house, or other place of public entertainment or resort who knowingly permits drunkenness

or other disorderly behaviour in such house or place or knowingly permits prostitutes or persons of notoriously bad character to meet or remain therein shall be liable on conviction to a fine not exceeding one hundred dollars.

PUBLIC POUNDS.

Impounding of stray animals.

24. (i) Public pounds shall be provided and pound-keepers appointed at such places as the Resident may direct, and it shall be lawful for the Resident from time to time, by notification in the *Gazette*, to fix tables of fees for impounding animals and rates of charges for feeding them during the time they are detained in the pound.

(ii) It shall be lawful for all persons, and it is the duty of all police officers, to seize all horses, cattle, goats, sheep, and pigs found straying upon any public road or trespassing on any public or private property and to confine such animals in any public pound, and if such animals shall not be respectively redeemed by the owners of the same within ten days after being so impounded by paying to the pound-keeper the pound fees at the rates in force for the time being together with the expenses of feeding the same while impounded according to the rate to be from time to time fixed by the Resident, such animals so impounded shall be sold by public auction by order of the Chief Police Officer, and the proceeds of such sale, after deducting the expenses thereof, and paying the said fees and expenses of feeding, shall be paid to the owner of the animal, and in default of the same being claimed within three months after such sale, it shall be retained by the Chief Police Officer and paid by him into the Treasury of the district.

(iii) Every person taking any animal out of a public pound without the knowledge and consent of the pound-keeper shall be liable on conviction to a fine not exceeding twenty-five dollars.

(iv) Every pound-keeper shall be deemed to be a public servant within the meaning of the Penal Code.

OTHER OFFENCES.

Corpses and dying persons.

25. Whoever deposits or causes to be deposited any dying person or any corpse in any public place or in any private place without the consent of the owner shall be liable on conviction to a fine not exceeding two hundred and fifty dollars or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Drunkenness and disorderly conduct in public place.

26. Whoever is found drunk and incapable of taking care of himself, or is guilty of any riotous, disorderly, or indecent behaviour in any public road or in any public place, or place of public entertainment or resort, or in the immediate vicinity of any court, or of any public office or police station, shall be liable on conviction to a fine not exceeding twenty-five dollars, or to imprisonment of either description for a term not exceeding fourteen days.

Wilful trespass.

27. Whoever, without satisfactory excuse, wilfully trespasses in or upon any dwelling-house or premises, or upon any land attached

thereto, or upon any boat or vessel, or upon any land belonging to Government or appropriated to any public purpose, not thereby in any of the above cases causing any actual damage, or not causing, in the opinion of the Magistrate, more than nominal damage, shall be liable on conviction to a penalty not exceeding twenty dollars.

Carrying arms in public places.

28. Whoever, not being a member of any regiment or military organization formed in or serving in the Federated Malay States or a member of the Police Force or a person in the service of the Government in the performance of his duty, goes armed with any offensive weapon in any public road, public place, or place of public amusement or resort, unless by permission of the Chief Police Officer, or of an officer authorized in that behalf by the Chief Police Officer may be arrested and disarmed by any police officer, and shall be liable on conviction to a fine not exceeding twenty dollars and on conviction the weapon may be forfeited.

Wearing unauthorized uniform.

29. Whoever wears without due permission the uniform appointed for the use of any regiment or military organization formed in or serving in the Federated Malay States or of any Government Department or any dress having the appearance or bearing any of the regimental or other distinctive badges of such uniform or any colourable imitation thereof shall be liable on conviction to a fine not exceeding fifty dollars and on conviction any such uniform, dress, badge, or mark may be forfeited.

Pedlars' licenses.

30. Whoever carries on the business of a pedlar or hawker without a license shall be liable on conviction to a fine not exceeding fifty dollars.

Rules for pedlars.

31. The Resident with the approval of the Chief Secretary to Government may make rules to be published in the *Gazette* providing for the licensing and regulation of pedlars and hawkers, and may prescribe a fine not exceeding fifty dollars for the contravention of any such rule.

Second-hand dealers' licenses.

32. Whoever deals in second-hand goods without a license shall be liable on conviction to a fine not exceeding one hundred dollars.

Presumption.

33. Every person in whose house or shop second-hand goods are found, apparently exposed for sale, or who is found in possession of second-hand goods in an unusual quantity, shall be deemed, until the contrary be proved, to be a dealer in second-hand goods.

Cancellation of second-hand dealer's license.

34. The Resident may at any time at his discretion cancel any license issued to a dealer in second-hand goods.

Rules for second-hand dealers.

35. The Resident with the approval of the Chief Secretary to Government may make rules to be published in the *Gazette* with regard to second-hand dealers regulating the issue and posting of licenses and prescribing the books to be kept, and may prescribe a fine not exceeding one hundred dollars for the contravention of any such rule.

Use of Government survey marks.

36. Whoever, except in the conduct of an authorized official survey, in making any boundary, or so as to appear to indicate a boundary, of any land makes or uses a mark in the form of a broad arrow or an iron pipe of any diameter less than six inches driven vertically into the soil shall for every such offence be liable on conviction to a fine not exceeding one hundred dollars.

Fees for licenses.

37. The Resident with the approval of the Chief Secretary to Government may, by notification in the *Gazette*, fix the fees which may be charged for any license issued under this Enactment, and may in like manner from time to time cancel or vary the same.

Provisions as to actions.

38. (i) No action shall be brought against any person for anything done or *bona fide* intended to be done in the exercise or supposed exercise of the powers given by this Enactment or by any rules made thereunder :

(*a*) without giving to such person one month's previous notice in writing of the intended action, and of the cause thereof ;

(*b*) after the expiration of three months from the date of the accrual of the cause of action ;

(*c*) after tender of sufficient amends.

(ii) In every action so brought it shall be expressly alleged that the defendant acted either maliciously or negligently and without reasonable or probable cause, and if, at the trial, the plaintiff shall fail to prove such allegation judgment shall be given for the defendant.

(iii) Though judgment shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Court before which the action is tried shall certify its approbation of the action.

SCHEDULE.

ENACTMENTS REPEALED.

State.	No. and year.	Short title.	Extent of repeal.
Perak ..	11 of 1894	Uniform Order in Council, 1894	The whole
Selangor ..	VII of 1894	Government Survey Marks Regulations	Do.
Perak ..	11 of 1898	Small Offences Enactment, 1898	Sections 2–38 inclusive
Selangor ..	17 of 1898	Do.	Do.
N. Sembilan	18 of 1898	Do.	Do.
Pahang ..	13 of 1898	Do.	Do.
Perak ..	9 of 1899	Second-hand Dealers	The whole
Selangor ..	12 of 1899	Do.	Do.
N. Sembilan	12 of 1899	Do.	Do.
Pahang ..	15 of 1899	Do.	Do.
Perak ..	14 of 1901	Pedlars	Do.
Selangor ..	1 of 1900	Do.	Do.
N. Sembilan	2 of 1900	Do.	Do.
Pahang ..	10 of 1899	Do.	Do.

ENACTMENT NO. 27 OF 1920.

An Enactment to provide for the Registration of Schools and of their managers and teachers and for grants-in-aid in certain schools.

L. N. GUILLEMARD,
President of the Federal Council.

[14th December, 1920.
16th December, 1920.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title and commencement.

1. This Enactment may be cited as "The Registration of Schools Enactment, 1920," and shall come into force on the publication thereof in the *Gazette*.

Interpretation.

2. In this Enactment unless there is something repugnant in the subject or context—

"Assistant Director" means an Assistant Director of Education appointed under Section 3 of this Enactment.

"Chief Secretary" means the Chief Secretary to the Government of the Federated Malay States.

"Committee of Management" means the person or persons who administer the revenues of any school other than a Government School.

"Director" means the Director of Education appointed under Section 3 of this Enactment.

"Existing School" means any school in existence at the commencement of this Enactment.

"Inspector" means an Inspector of Schools for any State appointed under Section 3 of this Enactment.

"Manager" means any person taking part in the management of a school. In the case of a school of which no such manager can be found in any of the Federated Malay States then the master of the school or if there be more than one master the head-master of the school or in any case of doubt such master as the Director may specify shall be deemed to be the manager.

"Medical Officer" means a Medical Officer appointed under Section 3 of this Enactment.

"New School" means a school started after the commencement of this Enactment.

"Register" means the Register of Schools kept under the provisions of Section 16 of this Enactment and "Registered" means entered upon such Register by the Director or an Assistant Director.

"Registered School" means a school registered in accordance with the provisions of this Enactment.

"School" means a place where fifteen or more persons are being or are habitually taught whether in one or more classes, but shall not include places where the teaching is solely of a religious character.

"Teacher" means a person employed by the Government or by the manager or by the Committee of Management to teach the pupils in a school and includes the manager if the manager is the head-master or the master in charge of the school.

Appointment of officers.

3. The Chief Secretary may appoint such persons as he may think fit to be Director of Education, Assistant Directors of Education, Inspectors of Schools, and Medical Officers respectively, for the purposes of this Enactment.

Schools must be registered.

4. Every existing school and every new school shall be registered under the provisions of this Enactment.

Penalty for unregistered schools.

5. (i) Any person who acts as manager of an unregistered school shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred dollars, and in the case of a second or subsequent conviction to a fine not exceeding five hundred dollars.

(ii) On the complaint of the Director or of an Assistant Director or of an Inspector, and on proof that a school is unregistered, a Magistrate of the First Class may order such school to be closed or may make such other order as he may deem fit.

PART II.

REGISTRATION OF SCHOOLS.

When registration necessary.

6. After the expiration of six months from the commencement of this Enactment it shall not be lawful for any person to manage, teach in, or maintain any existing school or to open, manage, teach in, or maintain any new school in the Federated Malay States until a certificate of registration of such school shall have been obtained in the manner hereinafter provided.

Forms of application for registration.

7. Applications for a certificate of registration referred to in Section 6 shall in the case of an existing school be in terms of Form 1 and in the case of a new school in terms of Form 2 of the Schedule hereto.

Certificate of registration and appeal against refusal.

8. (i) Upon the application for the registration of any school the Director shall register it and issue to the manager thereof a certificate of registration in Form 3 of the Schedule hereto, provided that the Director may refuse to register any school if in his opinion the premises appear to be insanitary, and in case of such refusal shall so inform the manager in writing, and shall also inform him in writing that he has the right of appeal to the Chief Secretary.

(ii) If the manager shall not within a period of one month appeal to the Chief Secretary or if on appeal to the Chief Secretary the decision of the Director shall be upheld, such school shall become an unregistered school.

PART III.

REGISTRATION OF MANAGERS AND TEACHERS.

Registration of managers and teachers.

9. (i) After the expiration of six months from the commencement of this Enactment no person shall manage any school or hold office as a member of the Committee of Management of any school, or teach in any school unless he has been duly registered and in the case of a teacher until he has obtained a certificate of registration in the manner hereinafter provided.

(ii) The application for registration by a manager or a member of the Committee of Management shall be in the terms of Form 4 of the Schedule hereto.

(iii) The application for a certificate of registration by a teacher shall be in the terms of Form 5 of the Schedule hereto.

(iv) The certificate of registration of a teacher shall be in the terms of Form 6 of the Schedule hereto.

(v) Any person who contravenes any of the provisions of this section, or supplies falsely or does not supply in full any of the information required by this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty dollars, and in the case of a second or subsequent conviction to a fine not exceeding five hundred dollars.

PART IV.

CONTROL AND SUPERVISION OF SCHOOLS.

Inspection of Schools.

10. It shall be the duty of the Director to inspect personally or cause to be inspected by an Assistant Director or Inspector at least once in every year every registered school for the purpose of ascertaining if all the provisions of this Enactment or of any regulations made hereunder are being complied with.

Entry for inspection.

11. For the purpose of carrying out the provisions of this Enactment or of any regulations made hereunder it shall be lawful for the Director or any Assistant Director or Inspector to enter any school at any reasonable time.

Conduct of School against regulations.

12. If it shall appear to the Director that any provision of this Enactment or of any regulation made hereunder has not been complied with in any registered school he may by notice in writing to the manager of such school call upon such manager to comply with any such regulation which is not being complied with at such school before the expiration of such period not being less than one month as may be stated in such notice by the Director and if at the expiration of the period so stated such manager has failed to comply with any requisition made in such notice it shall be lawful for the Director if no appeal as provided under Section 13 is pending to strike such school off the register and such school shall forthwith be deemed to be an unregistered school.

Appeal against decision of Director.

13. Any person who is dissatisfied with any decision of the Director made under this Enactment may appeal to the Chief Secretary whose ruling upon such matter shall be final, provided

that any such appeal shall be notified in writing within one month from the date of the communication of the decision of the Director.

Right of appeal to be mentioned in notice.

14. Every notice given by the Director under Section 12 or sub-section (ii) of Section 18 shall contain a note to the effect that the manager or teacher of the school has a right of appeal to the Chief Secretary from any decision of the Director within one month from the receipt of the notice.

Contents of appeal and notice of hearing.

15. The grounds of every appeal shall be concisely stated in writing and fourteen days' notice of the hearing of the appeal shall be given to the appellant. The appellant may, if he so desires, be present at the hearing of such appeal and be heard in support thereof either in person or by his advocate.

PART V.

GENERAL.

Register of Schools to be kept.

16. The Director or an Assistant Director shall keep in each State a Register or Registers of Schools in which shall be entered the name of every registered school, and the name of the manager of the school, and the names of each member of the Committee of Management of the school, and the names of the teachers employed in the school, and such particulars in connection therewith as may from time to time be prescribed for the purposes of carrying out the provisions of this Enactment.

Change in manager, Committee of Management, and teachers to be reported.

17. It shall be the duty of the manager to report to the Director or an Assistant Director any change in the manager or Committee of Management or teachers in any registered school, and any manager who fails to report such change within one month from its taking place shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty-five dollars.

Power of the Chief Secretary to declare certain Schools unlawful.

18. (i) If it shall appear to the Chief Secretary that any school is being used for the purpose of disseminating political doctrines detrimental to the interests of the Federated Malay States or of the public it shall be lawful for the Chief Secretary to declare such school to be an unlawful school: Provided that before making such declaration the Chief Secretary shall afford the manager an opportunity of shewing cause why such declaration should not be made.

(ii) If it shall appear to the Director that it is prejudicial to the interests of the Federated Malay States or of the public or of the pupils of any school that any person should be employed as a teacher in such school, it shall be lawful for the Director by notice in writing to cancel the certificate of registration issued to such teacher under Section 9.

(iii) Any person who acts as manager of or as member of the Committee of Management of or as teacher in an unlawful school shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five hundred dollars.

Grants-in-aid.

19. Grants-in-aid may be made by the Chief Secretary to such schools and upon such terms and in such amounts as may be prescribed by regulations made under this Enactment.

20. The Chief Secretary may make regulations generally for carrying out the provisions of this Enactment and without prejudice to such general power may make regulations providing for : Regulations.

(*a*) the hygienic character and the proper sanitation of schools or buildings ;

(*b*) the methods of enforcing discipline ;

(*c*) the prohibition of the use of any book, the use of which appears undesirable ;

(*d*) the proper keeping of school registers and books of account ;

(*e*) the medical inspection of pupils in schools ;

(*f*) the distribution and management of grants-in-aid under Section 19 ;

and such regulations when published in the *Gazette* shall have the force of law.

21. Any person who shall commit any breach of the provisions of any regulation made under this Enactment shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred dollars. Penalty for breach of regulations.

SCHEDULE.

FORM 1.

....., 19...

To the Director (or Assistant Director) of Education.

State of .....

Sir,—I have the honour to submit particulars as under of a school of which I am the manager (or member of the Committee of Management) at ..... and to request you to issue a certificate of registration for the same as an existing school under "The Registration of Schools Enactment, 1920."

I am, Sir,

Your obedient Servant,

.....

Manager,

or

Member of Committee of Management.

1. Name and address of school.
2. Name and address of the manager of the school.
3. Whether for boys, girls, or both.
4. The dimensions of each Class-room.
5. The average attendance for the past two months.
6. The syllabus of each Class or Standard.
7. The weekly time-table of each Class or Standard.
8. The times of roll-call.
9. The regular holidays.
10. The name, age, qualifications, experience, and salary of each teacher.

11. The names and addresses of and office held by each member of the Committee of Management.

12. The fees and any remissions or reductions therefrom.

13. Any other sources of revenue—

(*a*) from Invested Funds or Landed Property ;

(*b*) from Public Subscriptions ;

(*c*) from Private Subscriptions.

14. The rent of the school premises.

15. Any debt or charge on the school.

FORM 2.

....., 19...

To the Director (or Assistant Director) of Education.

State of .....

Sir,—I have the honour to submit particulars as under of a school which it is proposed to open at ..... and to request you to issue a certificate of registration of the same under "The Registration of Schools Enactment, 1920."

I am, Sir,

Your obedient Servant,

.....

Manager,

or

Member of Committee of Management.

1. Name and address of school.

2. Name and address of the manager of the school.

3. Whether for boys, girls, or both.

4. The dimensions of each Class-room.

5. The syllabus of each Class or Standard.

6. The weekly time-table of each Class or Standard.

7. The times of roll-call.

8. The regular holidays.

9. The name, age, qualifications, experience, and salary of each teacher.

10. The names and addresses of and office held by each member of the Committee of Management.

11. The fees and any remissions or reductions therefrom.

12. Any other sources of revenue—

(*a*) from Invested Funds or Landed Property ;

(*b*) from Public Subscriptions ;

(*c*) from Private Subscriptions.

13. The rent of the school premises.

14. Any debt or charge on the school.

FORM 3.

This is to certify that ..... school has been registered as an existing (new) school under "The Registration of Schools Enactment, 1920."

.....

Director of Education.

State of .....

....., 19...

FORM 4.

....., 19...

To the Director (or Assistant Director) of Education.

State of .....

Sir,—I have the honour to request you to register me as a manager or a member of the Committee of Management of the ..... school at .....

My address is .....

(Signed) .....

FORM 5.

....., 19...

To the Director (or Assistant Director) of Education.

State of .....

Sir,—I have the honour to submit particulars of myself as under and to request you to issue to me a certificate of registration as a teacher under "The Registration of Schools Enactment, 1920."

My address is .....

(Signed) .....

1. Full name and surname.
2. Age and place of birth.
3. Where educated.
4. Qualifications.
5. The names and addresses of all schools where previously employed, stating length of service at each.
6. Name and address of school where at present employed.
7. Present place of residence.

FORM 6.

This is to certify that ..... at present employed as a teacher at ..... school situated at ..... has been registered as a teacher under "The Registration of Schools Enactment, 1920."

.....

Director of Education.

State of .....

....., 19...

ENACTMENT NO. 31 OF 1920.

An Enactment to consolidate and amend the law relating to Customs Duties.

L. N. GUILLEMARD,
President of the Federal Council.

[14th December, 1920.
1st January, 1921.]

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :—

Short title, commencement, and repeal.

1. (i) This Enactment may be cited as "The Customs Enactment, 1920," and shall come into force on the first day of January, 1921.

(ii) Upon the coming into force of this Enactment the Enactments mentioned in the first schedule shall be repealed.

(iii) All Customs duties imposed, and all rules, notifications, and appointments made, under the provisions of any of the Enactments hereby repealed shall, so far as they are not inconsistent with the provisions of this or of any other Enactment for the time being in force, be deemed to have been imposed and made under this Enactment.

Interpretation.

2. In this Enactment unless there is something repugnant in the subject or context—

"Chief Secretary" means the Chief Secretary to Government, Federated Malay States.

"Supervisor of Customs" means any officer appointed by notification in the *Gazette* in such behalf.

"Principal Officer of Customs" means the Supervisor of Customs or Assistant Supervisor of Customs, and in his absence from any district and in districts in which there is no Supervisor or Assistant Supervisor of Customs includes the District Officer and Assistant District Officer.

"Proper Officer of Customs" means any officer of Customs acting in the fulfilment of the duties under this Enactment assigned to him by the Commissioner of Trade and Customs.

"Goods" mean any animal or thing imported into or exported from the Federated Malay States.

Commissioner and Deputy Commissioners to be appointed by the Chief Secretary.

3. (i) The Chief Secretary may appoint an officer to be styled the "Commissioner of Trade and Customs," hereinafter referred to as "the Commissioner," and may also appoint officers to be styled "Deputy Commissioners of Trade and Customs" who, subject to such limitations as the Chief Secretary may prescribe, may perform all duties imposed and exercise all powers conferred on the Com-

missioner by this Enactment and every duty so performed shall be deemed to have been duly performed for the purpose of this Enactment.

(ii) The Commissioner with the approval of the Chief Secretary may appoint such other officers as may be necessary for the management and collection of the Customs, and the performance of all duties connected therewith, on such salaries and allowances as may be determined, and may require of every person now employed or who shall hereafter be employed in the service of the Customs, such securities for his good conduct as he shall deem necessary. Appointment of Customs officers.

(iii) The Commissioner shall be the Chief Officer of Customs and shall have the general superintendence and management of all matters relating to Customs throughout the Federated Malay States subject to the direction and control of the Chief Secretary.

4. (i) The Chief Secretary may from time to time by notification in the *Gazette* fix the ports and places of import and export respectively and the places at which collecting stations shall be established for the collection of import or export duties. Ports of import and export and times of business.

(ii) The Commissioner with the approval of the Chief Secretary may from time to time by notification in the *Gazette* fix the days and times during which any collecting station may be open for business.

5. (i) The Chief Secretary may from time to time by notification in the *Gazette* fix the amount of Customs duties to be levied on any goods and may from time to time cancel such duties and impose new duties in the stead thereof and may from time to time exempt any goods from the payment of duties. Customs duties.

(ii) The Chief Secretary may from time to time by notification in the *Gazette* fix the amount to be paid as warehouse rent on any goods deposited in any Customs warehouse and may make regulations as to the custody and withdrawal of any goods so deposited. Warehouse rent.

6. The proper officer of Customs may board any vessel arriving at any port and freely stay on board while such vessel shall remain within the limits of such port, and if the master of any vessel on board of which any Customs officer is stationed neglect or refuse to provide such officer with sufficient room or accommodation under the deck for his bed or hammock he shall be liable to a fine not exceeding one hundred dollars. Customs officer to have power to board vessel.

7. The proper officer of Customs shall have free access to every part of the vessel, with power to fasten down hatchways or entrances to the hold, and to mark any goods before landing and to lock up, seal, mark, or otherwise secure any goods on board such vessel; and if any place, box, or chest on board such vessel be locked and the keys be withheld, such officer may open any such place, box, or chest in the best manner in his power, and if any goods be found concealed on board any such vessel they shall be forfeited; and if any officer shall place any lock, mark, or seal upon any goods on board, and such lock, mark, or seal shall be wilfully opened, altered, or broken before due delivery of such goods, or if any such goods be secretly conveyed away, or if the hatchways or entrances after having been fastened down by the Power to seal up and secure goods and to open locks.

officer be opened, the master of such vessel shall be liable on conviction to a fine not exceeding five hundred dollars.

Time and place of landing goods inwardly.

8. No goods (except ice and fresh fish, which may be landed at any time) shall be landed or put on shore from any vessel except on the days and during the times when the collecting station is open for business under the provisions of Section 4 without the permission of the proper officer of Customs, nor shall any goods be landed or unshipped except in the presence or with the authority of the proper officer of Customs nor shall any goods be so landed except at some quay, wharf or other place duly appointed for the landing or unshipping of goods, nor shall any such goods after having been landed or unshipped or put into any boats or craft to be landed be transhipped or removed into any other boat or craft previously to their being landed, without the permission of the proper officer of Customs ; and if any such goods shall be unshipped, landed, transhipped, or removed contrary hereto the same shall be liable to seizure.

Master or agent to answer questions.

9. The master or agent of every vessel arriving in any port shall, within twenty-four hours after arrival, present to the proper officer of the Customs the manifest of the vessel together with a copy thereof and from time to time and at all times shall answer all such questions relating to the vessel, cargo, crew, and voyage as shall be put to him by the proper officer of Customs and if he shall refuse to answer, or if he does not answer truly, or if after his arrival within three miles of the coast of the Federated Malay States bulk shall have been broken, or alteration made in the stowage of the cargo of such vessel so as to facilitate the unloading of any part of such cargo before the manifest of such vessel or cargo shall have been presented, or if any packages shall have been opened, unless cause be shewn to the satisfaction of the Commissioner, in every such case the master or agent shall be liable on conviction to a fine not exceeding five hundred dollars.

Packages registered "Contents unknown" may be opened and examined.

10. If the contents of any package intended for exportation in the same vessel shall be reported by the master as being unknown to him the proper officer of Customs may open and examine such packages on board such vessel or may bring the same to the collecting station for that purpose, and if there be found therein any goods which are prohibited to be imported, or any goods subject to duty on exportation, the export duty on which has not been paid, such goods shall be liable to seizure.

Baggage of passengers.

11. Any law or regulation to the contrary notwithstanding the baggage of passengers arriving in or leaving the Federated Malay States whether by land or water, may be examined and delivered in such manner as the Commissioner shall direct, but if any goods subject to duty shall be found therein after the owner or other person in charge thereof shall have denied that any such goods were contained therein, or if any prohibited or uncustomed goods shall be found concealed therein either before or after the removal of the baggage from the train, vehicle, or vessel whereby it has arrived in the Federated Malay States or before or after the placing of the baggage in or upon the train, vehicle, or vessel whereby it is to leave the Federated Malay States the same shall be liable to

seizure together with the packages containing the same and all the contents thereof, and the owner or other person in charge thereof shall be liable on conviction to a fine not exceeding five hundred dollars.

Samples may be taken by the Customs officers.

12. The proper officer of Customs may on the removal of any goods from the train, vehicle, or vessel whereby the same have arrived in the Federated Malay States or on the placing of any goods in or upon the train, vehicle, or vessel whereby the same are to leave the Federated Malay States, or at any time afterwards, take samples of the same for examination or for ascertaining the duties payable on such goods or for other such purposes as the Commissioner may have declared to be necessary and such samples may be disposed of in such manner as the Commissioner shall direct.

Combustibles not to be deposited in Customs warehouse.

13. No goods of a combustible or inflammable nature shall be deposited in any Customs warehouse without the sanction of the Commissioner, and if any such goods shall be landed they may be deposited at the expense of the importer thereof in any place that the Commissioner may deem fit, and whilst so deposited the same shall be deemed to be in the Customs warehouse and shall be liable to be dealt with at the expiration of fourteen days in the same manner as goods of a similar nature actually deposited in the Customs warehouse, unless duly cleared or warehoused in some approved warehouse in the meantime; and such goods shall be chargeable with such expenses for securing, watching, and guarding the same until sold, cleared, or warehoused as aforesaid, as the Commissioner may deem fit.

Goods not cleared within specified period may be sold.

14. All goods not being of a perishable nature deposited in a Customs warehouse and not cleared within six months, and all goods of a perishable nature so deposited and not cleared forthwith, and all goods of an inflammable nature so deposited and not cleared within fourteen days, may be sold by public auction, and the balance, if any, after payment of duties, freight, and charges, shall be paid to the owner of the goods; and no officer of Customs shall be liable to make good any damages which any goods may sustain while in any Customs warehouse, unless the same shall have been caused by his wilful neglect or default.

Government not liable for compensation for goods damaged by fire, etc.

15. No compensation shall be made by the Government to the owner, importer, exporter, consignor, or consignee of any goods by reason of any damage occasioned thereto in any Customs warehouse by fire or inevitable accident.

Lighterage, porterage, etc., of goods to be at the expense of the importer or exporter.

16. All necessary operations relating to the loading, shipping, unloading, unshipping, landing, carrying, weighing, opening, unpacking, repacking, bulking, sorting, and marking of goods shall be performed by or at the expense of the owner, importer, exporter, consignor, consignee, or agent as the case may be.

Goods removed without permission may be seized.

17. If any goods shall be removed from any railway station, vessel, quay, wharf, or other place without the permission of the proper officer of Customs or otherwise than in such manner by such persons within such time and by such roads or ways as such officer shall direct, the same shall be liable to seizure together with everything packed therewith.

Goods concealed in packages may be seized.

18. If any goods shall be found packed in any manner calculated to deceive the officers of Customs so that a proper account of such goods might not be taken the same shall be liable to seizure together with everything packed therewith.

Goods not to be shipped except by authority of the Customs officers.

19. No goods shall be shipped, put off, or water-borne to be shipped for exportation from any port or place in the Federated Malay States except on the days and during the times when the collecting station is open for business under the provisions of Section 4 without the permission of the proper officer of Customs nor shall any goods be shipped, put off, or water-borne to be shipped for exportation, or be exported by land from any place not duly appointed for such purpose, or without the presence or authority of the proper officer of Customs and any goods so shipped, put off, or water-borne to be shipped or found being exported contrary hereto shall be liable to seizure.

Dutiable exports to be declared.

20. The exporter of any goods subject to duty on exportation shall,

(*a*) before shipment thereof furnish to the proper officer of Customs at the port of exportation, or

(*b*) if such goods are despatched by rail, before despatch furnish to the officer in charge of the collecting station at which the exporter intends to pay the export duties on the said goods ; or

(*c*) if such goods are exported by road, before export furnish to the principal officer of Customs of the district from which such goods are exported

a true and full account of the weight, measure, quantity, description, and value of all such dutiable goods to be exported by him ; and it shall be lawful for such officers to cause any such goods to be weighed, measured, assayed, and valued ; and if no account shall be rendered or if the account rendered by the exporter shall be false in any particular all such goods shall be liable to seizure, and the exporter thereof or his agent shall be liable on conviction to a penalty not exceeding two hundred dollars.

Accounts to be rendered in prescribed form and documents relating to goods produced by exporter.

21. The account required by the foregoing section shall be rendered by the exporter or his agent in the form in the second schedule to this Enactment or in such other form as the Commissioner may prescribe ; and the exporter or his agent shall subscribe the declaration at the foot thereof, and on the demand of the proper officer of Customs the exporter shall produce the invoice, bills of lading, and other documents relating to the goods to test the accuracy of such specification ; and on failure to comply with any of the foregoing requirements the exporter or his agent shall be liable to the same penalty as if no account had been rendered.

Officers may search for smuggled goods on premises.

22. The proper officers of Customs on the written order of the Commissioner may search any premises in which they have reasonable cause to suspect that any prohibited goods or any goods on which the duty has not been paid are harboured, kept, or concealed, and in case of resistance break open doors, chests, trunks, and other packages ; and if any such goods be found in any premises the occupier thereof shall be liable on conviction to a fine not exceeding

five hundred dollars, and any such goods so found shall be liable to seizure ; and if in any prosecution in respect of any goods seized for non-payment of duties or any other cause of seizure or for the recovery of any penalty or penalties under this Enactment any dispute shall arise as to whether the duties or customs have been paid in respect of such goods, or whether the same have been lawfully imported or lawfully unshipped, or concerning the place from which such goods were brought, then in every such case the proof thereof shall be on the defendant in such prosecution.

Goods landed without being entered in manifest and prohibited goods imported or exported.

23. If any goods shall be landed from any vessel for which no manifest shall have been presented, or which are not included in the manifest of the vessel from which they shall have been landed, or if any prohibited goods whatsoever shall be imported or brought into any part of the Federated Malay States, or if any goods which are prohibited to be exported shall be brought to any quay, wharf, or other place in the Federated Malay States in order to be put on board any vessel for the purpose of being exported, or if any goods which are prohibited to be exported or in respect of which the export duty has not been paid shall be put on board any vessel with intent to be laden or shipped for exportation, or if any goods which are prohibited to be exported or in respect of which the export duty has not been paid shall be found in any package produced to the officers of Customs as containing goods not so prohibited or in respect of which the export duty has been paid ; or if any goods subject to any duty or restriction in respect of importation or which are prohibited to be imported into the Federated Malay States shall be found or discovered to have been concealed in any manner in or upon any train or vehicle within the Federated Malay States or on board any vessel within the waters of the Federated Malay States or to have been imported into the Federated Malay States contrary to such restriction or prohibition then and in every of the foregoing cases all such goods shall be liable to seizure, together with any goods that shall be found packed with or used in concealing them.

Customs officers may for probable cause stop carts and search for goods.

24. Any officer of Customs or other person acting in his aid, or duly employed for the prevention of smuggling, may upon reasonable suspicion stop and examine any cart, wagon, or other vehicle for the purpose of ascertaining whether any smuggled or prohibited goods are contained therein ; and all persons owning or in charge of such cart, wagon, or other vehicle refusing to stop or allow any such examination when required shall be liable on conviction to a fine not exceeding five hundred dollars.

Persons may be searched if officers have reason to suspect smuggled goods are concealed upon them.

25. Any principal officer of Customs or any officer authorized by him in that behalf in writing may cause to be searched any person on board any vessel within the limits of any port or any person who shall within the previous twelve hours have landed from any such vessel or any person who may arrive by land, by train, cart, wagon, or other vehicle, provided such officer shall have good reason to suppose that such person has any uncustomed or prohibited goods secreted about his person and provided further that no female shall be searched except by a female ; and if any person shall obstruct any such officer in going, remaining, or returning from on board or in searching such vessel, cart, wagon, or other

vehicle, or person, every such person shall on conviction be liable to a fine not exceeding five hundred dollars ; and if any passenger or other person on any such vessel, cart, wagon, or other vehicle, or who may have arrived by any such vessel, train, cart, wagon, or other vehicle, shall upon being questioned by any such officer whether he has goods liable to duty upon his person or in his possession deny the same, and if any such goods shall after such denial be discovered to be or to have been upon his person or in his possession such goods shall be liable to seizure and such person shall on conviction be liable to a fine not less than three nor more than twenty times the combined value of such goods and duty.

Power to prohibit imports and exports.

26. The Chief Secretary may, by notification in the *Gazette*, prohibit the importation into or the exportation from the Federated Malay States, or any part thereof, either absolutely or conditionally or from or to any country, territory, or place without the Federated Malay States in such notification to be specified, or the removal from place to place in the Federated Malay States, of any animal or thing.

Ports and places of import, export, and removal.

27. The Chief Secretary may, by notification in the *Gazette*, prohibit the importation into or exportation from the Federated Malay States or any part thereof or removal from place to place in the Federated Malay States of any animal or thing except at ports or places specified in such notification.

Licenses.

28. The Chief Secretary may issue a license subject to such restrictions and conditions as he thinks fit allowing the person named in the license to import, export, or remove any animal or thing in respect of which a notification is in force.

Delegation of power to issue licenses.

29. (i) Any license authorized by this Enactment to be issued by the Chief Secretary may be issued by any officer or officers authorized by the Chief Secretary in that behalf.

(ii) Such authority may be given to any officer either by name or by virtue of his office, and any such authority may be general or restricted to particular acts or things and may in any case be restricted to particular areas and may be varied or revoked by the Chief Secretary.

Vessel may be seized and detained pending determination of charge.

30. If the owner, agent, or master of any vessel shall have been charged with any offence under this Enactment the principal officer of Customs or any person authorized by him in that behalf in writing may seize and detain such vessel pending the determination of such charge and until payment of the fine, if any, imposed in respect of any such offence.

Seizures to be delivered to Customs.

31. All vessels and all goods liable to seizure and all persons liable to be detained for any offence under this Enactment may be seized or detained in any place either on land or water by any officer of Customs or by any public servant, and all vessels and goods so seized shall, as soon as conveniently may be, be delivered into the care of the principal officer of Customs of the port or district or other proper officer of Customs appointed to receive the same ; and the seizure of any goods shall be taken to include the package in which the same are found and all the contents thereof.

Notice to be given by seizing officer to owner of vessels and goods seized.

32. Whenever any vessel or goods shall be seized under this Enactment the seizing officer shall forthwith give notice in writing of such seizure, and of the grounds thereof to the master of such vessel or to the owner of such goods, if known, either by delivering the same to him personally, or by letter addressed to him at his place of abode if known, and transmitted by post ; provided always that such notice shall not be required to be made on the seizure of goods where the seizure is made on the person or in the presence of the offender ; and all goods seized under this Enactment shall be taken to be forfeited unless the person from whom such goods shall have been seized, or the owner of them or some person authorized by him, shall within one calendar month from the day of seizing the same give notice to the principal officer of Customs of the port or district that he claims the goods, or intends to claim them.

Resident may direct seizure to be restored.

33. The Resident of a State may order any vessel or goods seized under this Enactment, whether forfeited or not, to be delivered to the proprietor thereof upon such terms and conditions as he may deem fit.

Penalty on making false declaration, signing false documents, untruly answering questions, and counterfeiting documents.

34. If any person shall make or sign any declaration, certificate, or other instrument required by this Enactment to be verified by signature only, the same being false in any particular ; or if any person shall make or sign any declaration made for the consideration of any officer of Customs on any application presented to him, the same being false in any particular ; or if any person required by this Enactment to answer any questions put to him by any officer of Customs shall not truly answer such questions ; or if any person shall counterfeit, falsify, or wilfully use when counterfeited or falsified any document required by this Enactment or by or under the direction of the Commissioner, or any instrument used in the transaction of any business or matter relating to Customs ; or shall fraudulently alter any document or instrument or counterfeit the seal, signature, initials, or other mark of or used by any officer of Customs for the verification of any such document or instrument or for the security of goods or any other purpose in the conduct of business, relating to Customs or to the officers thereof, every person so offending shall for every such offence be liable on conviction to a fine not exceeding five hundred dollars.

Penalty for illegally evading regulations as to prohibited imports and exports and evading of payment of Customs duty.

35. Every person who shall be concerned in importing into or exporting from the Federated Malay States any prohibited goods or any goods the importation or exportation of which is restricted contrary to such prohibition or restriction, whether the same be shipped, unshipped, or delivered or not, and every person who shall ship, unship, or deliver or assist or be otherwise concerned in the shipping, unshipping, or delivery of any goods which are prohibited, or of any goods which are restricted and imported or exported contrary to such restriction or of any goods in respect of which no manifest shall have been presented or shall deliver, remove, or withdraw from any vessel, quay, wharf, or other place previous to the examination thereof by the proper officer of Customs except in the presence or with the authority of such officer any goods imported into the Federated Malay States, or who shall assist or

be otherwise concerned in the illegal removal or withdrawal of any goods from any Customs warehouse or place of security in which they shall have been deposited, or who shall knowingly harbour, keep, or conceal, or shall knowingly permit or suffer or cause or procure to be harboured, kept, or concealed any prohibited or restricted goods or goods on which the Customs duties have not been paid, or any goods illegally removed, or to whose hands or possession any such goods shall knowingly come, or who shall be in any way knowingly concerned in conveying, removing, depositing, concealing, or in any manner dealing with any such goods with intent to defraud the Government of any duties thereon, or to evade any prohibition or restriction of or applicable to such goods, or who shall be in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any Customs duties: shall in each and every of the foregoing cases be on conviction liable to a fine not less than three nor more than twenty times the combined value of such goods and duty.

Penalty for obstructing officers and rescuing goods.

36. Every person who shall assault or obstruct any officer of Customs or other public servant or any person acting in his or their aid or assistance, or duly employed for the prevention of smuggling, in the execution of his or their duty, or in the due seizing of any goods liable to forfeiture under this Enactment, or who shall rescue or endeavour to rescue, or cause to be rescued, any goods which have been duly seized, or who shall before or after any seizure stave, break, or otherwise destroy, any package or goods to prevent the seizure thereof or the securing of the same, shall, on conviction of any of the said offences: for the first offence be punished by imprisonment of either description for a term not exceeding nine months or by fine not exceeding one thousand dollars or to both, and for a second or subsequent offence by imprisonment of either description for a term not exceeding eighteen months and shall be also liable to a fine not exceeding two thousand dollars.

Rewards to informers and others.

37. The Resident of a State may offer such rewards as he may deem fit out of any pecuniary penalty or composition to any officer or other person by whose means the same is recovered, and may order to be paid in respect of any seizure made under this Enactment to the person or persons making the same such reward as he may deem fit not exceeding the value of the goods so seized.

Penalty on person offering and receiving bribes, etc.

38. If any officer of Customs or other person duly employed for the prevention of smuggling shall make any collusive seizure, or deliver up, or make any agreement to deliver up or not to seize, any vessel or other means of conveyance, or any goods liable to seizure, or shall accept, agree to accept, or attempt to obtain, any bribe, gratuity, recompense, or reward for the neglect or non-performance of his duty, or conspire or connive with any person to import or bring into the Federated Malay States or be in any way concerned in the importation or bringing in of any goods prohibited to be imported or brought in or liable to Customs duties, for the purpose of seizing any vessel, or other means of conveyance, or goods, and obtaining any reward for such seizure or otherwise, every such officer shall, on conviction under this Enactment, be

liable to a fine not exceeding one thousand dollars; and every person who shall give or offer or promise to give or procure to be given any bribe, gratuity, recompense, or reward to, or shall make any collusive agreement with, any such officer or person as aforesaid, to induce him in any way to neglect his duty or to do, conceal, or connive at any act whereby any of the provisions of any other law relating to imports and exports may be evaded, shall, on conviction under this Enactment, be liable to a fine not exceeding five hundred dollars.

Conviction under other law.

39. Nothing in this Enactment contained shall be deemed to prevent the prosecution, conviction, and punishment of any person according to the provisions of any other law for the time being in force in the Federated Malay States; but so that no person shall be punished more than once for the same offence.

Penalties.

40. (i) Any person, who imports, exports, or removes or attempts to import, export, or remove or abets any other person in importing, exporting, or removing or attempting to import, export, or remove any animal or thing in contravention of the provisions of any notification or rule made under this Enactment or of any license issued thereunder, shall be guilty of an offence, and on conviction before a Magistrate of the First Class shall be liable to a fine not exceeding five thousand dollars or to imprisonment of either description for a term not exceeding twelve months or to both such fine and imprisonment.

(ii) Where a company or society is guilty of any such contravention, every director, manager, secretary, and other officer of the company or society, who is knowingly a party to the contravention, shall be guilty of an offence and liable to the like penalty.

Confiscation.

41. (i) Where any person is convicted under Section 40 the animal or thing in respect of which the offence has been committed shall be liable to confiscation by order of the convicting Court.

(ii) Such confiscation may be in addition to any other penalty.

(iii) Where the importer, exporter or remover of prohibited goods is not known or cannot be found, and by reason thereof or for any other cause proceedings cannot be taken, the prohibited goods may be confiscated by order of a Magistrate of the First Class.

Mode of recovery of duty and penalty.

42. All duties and penalties incurred under this Enactment may be recovered by action in the name of the Commissioner.

Court of First Class Magistrate to have full jurisdiction.

43. A conviction for any offence under this Enactment may be had before the Court of a Magistrate of the First Class which shall have jurisdiction to impose any penalty provided by this Enactment.

Rules.

44. (i) The Chief Secretary may make rules

(*a*) to regulate the conduct of all matters relating to the collection of Customs duties;

(*b*) to regulate the powers and duties to be exercised and performed by officers of Customs;

(*c*) to prescribe the manner in which goods subject to duty shall or shall not be packed and to regulate or prohibit the inclusion of goods subject to duty in the same package or receptacle with goods not so subject;

(*d*) to prescribe the penalty not exceeding a fine of five hundred dollars with which the contravention of any rule made under this section shall be punishable ;

(*e*) to regulate the issue of licenses ;

(*f*) to prescribe the fees if any to be paid for such licenses ;

(*g*) to prescribe the method of importing, exporting, or removing any animal or thing under a license ;

(*h*) generally to give effect to the provisions of this Enactment.

(ii) Goods in respect whereof there shall be a contravention of any rule made under this section relating to the manner of packing or to the inclusion of goods subject to duty in the same package or receptacle with goods not so subject shall be deemed to be prohibited goods.

Protection of officers.

45. (i) No action shall be brought against any person for anything done, or *bona fide* intended to be done, in the exercise or supposed exercise of the powers given by this Enactment or by any rules made thereunder

(*a*) without giving to such person one month's previous notice in writing of the intended action and of the cause thereof ;

(*b*) after the expiration of three months from the date of the accrual of the cause of action ;

(*c*) after tender of sufficient amends.

(ii) In every action so brought it shall be expressly alleged that the defendant acted either maliciously or negligently and without reasonable or probable cause and if at the trial the plaintiff shall fail to prove such allegation, judgment shall be given for the defendant.

(iii) Though judgment shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Court, before which the action is tried, shall certify its approbation of the action.

First Schedule.

ENACTMENTS REPEALED.

State Enactments.

State.	No. and year.	Short title.
Perak ..	10 of 1898	The Customs Duties Enactment, 1898
Selangor ..	9 of 1898	Do.
N. Sembilan	21 of 1897	The Customs Duties Enactment, 1897
Pahang ..	2 of 1898	The Customs Duties Enactment, 1898
Perak ..	21 of 1907	The Customs Regulations Enactment, 1907
Selangor ..	20 of 1907	Do.
N. Sembilan	21 of 1907	Do.
Pahang ..	17 of 1907	Do.

FEDERAL ENACTMENTS.

No. and year.	Short title.
7 of 1915	The Customs Regulations Enactments, 1907, Amendment Enactment, 1915
25 of 1918	The Customs Regulations Enactments, 1907, Amendment Enactment, 1918 (No. 2)

SECOND SCHEDULE.

(Section 21.)

ACCOUNT OF DUTIABLE ARTICLES EXPORTED.

To .....

The ..... of Customs, ... at .....

I hereby declare that the following is a full and true account of the weight, measure, quantity, description, and value of the dutiable articles to be exported by me by [1] ..... from [2] ..... on the ..... day of ..... 19...

Number and packages.	Description.	Weight, measure, or quantity.	Value.	State of origin.

Place .....

Date ..... 19...

.....

Exporter or agent.

[1] State whether by rail, road, steamer, or sailing vessel.

[2] State name of railway station or seaport, or point of export by road.

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